

# Exhibit G

Page 1	Page 3
<p>1 UNITED STATES DISTRICT COURT 2 FOR THE WESTERN DISTRICT OF MISSOURI 3 CENTRAL DIVISION 4 SHONDEL CHURCH, et al., ) 5 ) 6 Plaintiffs, ) 7 ) 8 vs. ) Case No. 9 ) 17-04057-CV-C-NKL 10 STATE OF MISSOURI, et al., ) 11 ) 12 Defendants. ) 13 14 VIDEO-RECORDED DEPOSITION OF MICHAEL K. BARRETT 15 TAKEN ON BEHALF OF THE PLAINTIFFS 16 OCTOBER 4, 2017 17 18 19 20 (Starting time of the deposition: 8:10 a.m.) 21 22 23 24 25</p>	<p>1 UNITED STATES DISTRICT COURT 2 FOR THE WESTERN DISTRICT OF MISSOURI 3 CENTRAL DIVISION 4 SHONDEL CHURCH, et al., ) 5 ) 6 Plaintiffs, ) 7 ) 8 vs. ) Case No. 9 ) 17-04057-CV-C-NKL 10 STATE OF MISSOURI, et al., ) 11 ) 12 Defendants. ) 13 14 VIDEO-RECORDED DEPOSITION OF MICHAEL K. BARRETT, 15 produced, sworn and examined on October 4, 2017, 16 between the hours of eight o'clock in the forenoon 17 and one o'clock in the afternoon of that day, at the 18 ACLU of Missouri Foundation, Suite 1130, 906 Olive 19 Street, St. Louis, Missouri 63101, before William L. 20 DeVries, a Certified Court Reporter (MO), Registered 21 Diplomate Reporter, and Certified Realtime Reporter, 22 in a certain cause now pending in the United States 23 District Court, Western District of Missouri, 24 Central Division, between SHONDEL CHURCH, et al., 25 Plaintiffs, vs. STATE OF MISSOURI, et al., Defendants; on behalf of the Plaintiffs.</p>
Page 2	Page 4
<p>1 I N D E X 2 QUESTIONS BY: PAGE 3 MR. WILLIAMSON 7 4 MR. QUINLAN 101 5 MS. SHIPMA 164 6 MR. QUINLAN 169 7 8 9 E X H I B I T S 10 EXHIBIT PAGE 11 Exhibit 1 Notice of deposition 10 12 Exhibit 2 9-11-17 Barrett letter to MSPD 76 13 attorneys 14 Exhibit 3 Judge Crane e-mail response 80 15 Exhibit 4 Cumulative caseload metrics 89 16 spreadsheet 17 Exhibit 5 Boone County Bar Association 99 18 October 2017 Newsletter 19 20 (The original exhibits were retained by the court 21 reporter to be attached to the original and copies 22 of the transcript.) 23 24 25</p>	<p>1 A P P E A R A N C E S 2 3 For the Plaintiffs: 4 Mr. Jason D. Williamson 5 American Civil Liberties Union 6 Foundation 7 125 Broad Street, 18th Floor 8 New York, New York 10004-2400 9 (212) 284-7340 10 jwilliamson@aclu.org 11 12 Mr. James J. Maune 13 Orrick 14 2050 Main Street, Suite 1100 15 Irvine, California 92614 16 (949) 491-5616 17 jmaune@orrick.com 18 19 Mr. Matthew R. Shahabian 20 Orrick 21 51 West 52nd Street 22 New York, New York 10019 23 (212) 506-3750 24 mshahabian@orrick.com 25 26 For the Public Defender Defendants: 27 28 Ms. Jacqueline Shipma 29 Missouri State Public Defender 30 Woodrail Center 31 1000 West Nifong 32 Building 7, Suite 100 33 Columbia, Missouri 65203 34 (573) 525-5212 35 jacqueline.shipma@mspd.mo.gov</p>

1 (Pages 1 to 4)

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

Case 2:17-cv-04057-NKL Document 153-8 Filed 02/09/18 Page 2 of 77

Page 5	Page 7
<p>1 For the State of Missouri and Governor Greitens:</p> <p>2 Mr. Michael Quinlan 3 State of Missouri 4 Attorney General's Office 815 Olive Street, Suite 200 5 St. Louis, Missouri 63101 (314) 340-7861 michael.quinlan@ago.mo.gov</p> <p>6 Mr. Steven R. Ramsey 7 State of Missouri 8 Attorney General's Office 221 West High 9 Jefferson City, Missouri 65102 (573) 751-1024 steven.ramsey@ago.mo.gov</p> <p>10 Also present: 11 Mr. John Niehaus, Videographer 12 Midwest Litigation Services 13 711 North Eleventh Street 14 St. Louis, Missouri 63101 15 (314) 644-2191 1-800-280-3376</p> <p>16 Mr. Anthony Rothert, ACLU</p> <p>17 Court Reporter: 18 William L. DeVries, RDR/CRR 19 Missouri CCR #566 20 Midwest Litigation Services 21 711 North Eleventh Street 22 St. Louis, Missouri 63101 23 (314) 644-2191 24 1-800-280-3376</p>	<p>1 Midwest Litigation Services.</p> <p>2 Will counsel please introduce yourself 3 for the record?</p> <p>4 MR. WILLIAMSON: Jason Williamson for 5 the plaintiffs.</p> <p>6 MR. SHAHABIAN: Matt Shahabian for the 7 plaintiffs.</p> <p>8 MR. MAUNE: James Maune for the 9 plaintiffs.</p> <p>10 MR. RAMSEY: Steven Ramsey for the 11 state.</p> <p>12 MR. QUINLAN: Michael Quinlan for the 13 State of Missouri and Governor Greitens.</p> <p>14 MS. SHIPMA: Jacqueline Shipma for the 15 public defender defendants.</p> <p>16 VIDEOGRAPHER: Can you please swear in 17 the witness?</p> <p>18 COURT REPORTER: Do you swear or affirm 19 that the testimony you are about to give in this 20 proceeding will be the truth, the whole truth, and 21 nothing but the truth?</p> <p>22 THE WITNESS: I do.</p> <p>23 EXAMINATION</p> <p>24 QUESTIONS BY MR. WILLIAMSON: 25 <b>Q. Good morning, Mr. Barrett.</b></p>
Page 6	Page 8
<p>1 IT IS HEREBY STIPULATED AND AGREED by 2 and between counsel for the Plaintiffs and counsel 3 for the Defendants that this deposition may be taken 4 in shorthand by William L. DeVries, RDR/CRR, a 5 Certified Court Reporter and Certified Shorthand 6 Reporter, and afterwards transcribed into 7 typewriting; and the signature of the witness is 8 expressly reserved.</p> <p>9 * * * * *</p> <p>10 MICHAEL K. BARRETT, 11 of lawful age, produced, sworn and examined on 12 behalf of the Plaintiffs, deposes and says: 13 (Starting time of the deposition: 8:10 a.m.) 14 VIDEOGRAPHER: We're on the record. 15 Today's date is October 4th, 2017, and the time is 16 approximately 8:10 a.m. This is the video-recorded 17 deposition of Michael K. Barrett in the matter of 18 Shondel Church, et al., versus State of Missouri, 19 et al., Case Number 17-04057-CV-C-NKL, in the United 20 States District Court for the Western District of 21 Missouri, Central Division. 22 This deposition is being held at ACLU 23 of Missouri Foundation in St. Louis, Missouri. The 24 reporter's name is Bill DeVries. My name is John 25 Niehaus. I'm the legal videographer. We are with</p>	<p>1 A. Good morning.</p> <p>2 <b>Q. My name is Jason Williamson. I</b> 3 <b>represent the plaintiffs in this case. Mr. Barrett,</b> 4 <b>have you ever been deposed before?</b></p> <p>5 A. Never.</p> <p>6 <b>Q. So we'll just go over a couple of quick</b> 7 <b>ground rules so that we're on the same page. I'm</b> 8 <b>going to ask you a number of questions that are</b> 9 <b>relevant to this case and you're required to answer</b> 10 <b>those questions truthfully to the best of your</b> 11 <b>ability. Remember that your testimony is under</b> 12 <b>oath. So it is just as if you were testifying in</b> 13 <b>court. Do you understand that?</b></p> <p>14 A. I do.</p> <p>15 <b>Q. The deposition today will last no more</b> 16 <b>than seven hours. I do not expect us to need that</b> 17 <b>much time, but we will take breaks as appropriate,</b> 18 <b>and please let me know if you need to take a break</b> 19 <b>for the restroom or -- or any other reason.</b></p> <p>20 VIDEOGRAPHER: One moment.</p> <p>21 <b>Q. (By Mr. Williamson) Your attorneys may</b> 22 <b>object to one or more of my questions, but except in</b> 23 <b>limited circumstances you're still required to</b> 24 <b>answer the question truthfully and to the best of</b> 25 <b>your ability. Is that clear?</b></p>

2 (Pages 5 to 8)

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

Case 2:17-cv-04057-NKL Document 153-8 Filed 02/09/18 Page 3 of 77

<p style="text-align: right;">Page 9</p> <p>1 A. That's clear.</p> <p>2 <b>Q. Okay. And if you don't understand my</b></p> <p>3 <b>question or you have trouble hearing me, please just</b></p> <p>4 <b>feel free to let me know and I will rephrase or</b></p> <p>5 <b>repeat -- repeat the question as necessary, okay?</b></p> <p>6 A. Okay.</p> <p>7 <b>Q. When you answer the question, just</b></p> <p>8 <b>please make sure to speak clearly and loudly enough</b></p> <p>9 <b>for our court reporter, and when you answer please</b></p> <p>10 <b>make sure you answer verbally as opposed to nodding</b></p> <p>11 <b>your head or shrugging your shoulders, etc. Is that</b></p> <p>12 <b>clear?</b></p> <p>13 A. That's clear.</p> <p>14 <b>Q. And then finally just if you could</b></p> <p>15 <b>allow me to finish answering my question before you</b></p> <p>16 <b>answer just so that we can have a -- have a clean</b></p> <p>17 <b>record here, make things easier for our court</b></p> <p>18 <b>reporter. Okay?</b></p> <p>19 A. Okay.</p> <p>20 <b>Q. Mr. Barrett, you are aware that you</b></p> <p>21 <b>were identified by your attorneys in this case as</b></p> <p>22 <b>one of the Missouri State Public Defender employees</b></p> <p>23 <b>designated to provide deposition testimony under</b></p> <p>24 <b>Federal Rules of Civil Procedure 30(b)(6); is that</b></p> <p>25 <b>correct?</b></p>	<p style="text-align: right;">Page 11</p> <p>1 <b>you read the description of item number six there?</b></p> <p>2 <b>I'm sorry, for the record.</b></p> <p>3 A. Yes.</p> <p>4 <b>Q. Can you read it out loud, please?</b></p> <p>5 A. Oh.</p> <p>6 <b>Q. Sorry.</b></p> <p>7 A. (Quote as read):</p> <p>8 Policies and procedures relating to the</p> <p>9 circumstances under which and process</p> <p>10 by which MSPD attorneys are permitted</p> <p>11 or required to refuse case</p> <p>12 appointments.</p> <p>13 <b>Q. Are you prepared to answer questions</b></p> <p>14 <b>related to that subject?</b></p> <p>15 A. Yes.</p> <p>16 <b>Q. And can you read the description of</b></p> <p>17 <b>item number 13?</b></p> <p>18 A. Number 13. (Quote as read):</p> <p>19 Information regarding MSPD budget</p> <p>20 allocations and expenditures, including</p> <p>21 the amount or proportion spent on</p> <p>22 expert witnesses, investigators, and</p> <p>23 social workers respectively.</p> <p>24 <b>Q. And are you prepared to answer that --</b></p> <p>25 <b>questions about that subject?</b></p>
<p style="text-align: right;">Page 10</p> <p>1 A. I'm aware.</p> <p>2 <b>Q. Okay. And did you receive a copy of</b></p> <p>3 <b>that deposition notice?</b></p> <p>4 A. I believe I have, yes.</p> <p>5 <b>Q. Okay. Did you have a chance to review</b></p> <p>6 <b>it before this deposition?</b></p> <p>7 A. Generally, yes, I did read through it.</p> <p>8 (WHEREIN, Exhibit 1, Notice of</p> <p>9 deposition, was marked for identification.)</p> <p>10 MR. WILLIAMSON: Okay. I'm going to</p> <p>11 hand you a document that is marked Exhibit 1 for</p> <p>12 identification. Copy to the -- sorry, I only have</p> <p>13 one. One copy.</p> <p>14 MR. QUINLAN: This is one?</p> <p>15 <b>Q. (By Mr. Williamson) Is that a copy of</b></p> <p>16 <b>the deposition notice that you reviewed?</b></p> <p>17 A. I believe it is.</p> <p>18 <b>Q. And you see attachment A there as well?</b></p> <p>19 A. I do.</p> <p>20 <b>Q. Okay. My understanding is that you</b></p> <p>21 <b>will be prepared to testify today with respect to at</b></p> <p>22 <b>least numbers 6 and 13 on attachment A. Is that</b></p> <p>23 <b>your understanding?</b></p> <p>24 A. Six. And what was the other one?</p> <p>25 <b>Q. Why don't we do this? Can you -- can</b></p>	<p style="text-align: right;">Page 12</p> <p>1 A. Yes.</p> <p>2 <b>Q. If there are any questions that I ask</b></p> <p>3 <b>you that you are not prepared to answer, please feel</b></p> <p>4 <b>free to let me know.</b></p> <p>5 A. Okay.</p> <p>6 <b>Q. Okay? Mr. Barrett, did you prepare for</b></p> <p>7 <b>the deposition today?</b></p> <p>8 A. Yes.</p> <p>9 <b>Q. How did you prepare?</b></p> <p>10 A. I reviewed some old budget books. I</p> <p>11 reviewed a study pulled together by the accounting</p> <p>12 firm of RubinBrown. I reviewed to some degree our</p> <p>13 previous year operating budgets.</p> <p>14 <b>Q. Did you meet with your attorneys?</b></p> <p>15 A. Yes.</p> <p>16 <b>Q. Did you meet with any MSPD district</b></p> <p>17 <b>defenders in preparation for the deposition today?</b></p> <p>18 A. No.</p> <p>19 <b>Q. Did you meet with any assistant public</b></p> <p>20 <b>defenders?</b></p> <p>21 A. Not in preparation for this deposition</p> <p>22 today.</p> <p>23 <b>Q. Okay. Did you meet with any other MSPD</b></p> <p>24 <b>staff as part of your preparation?</b></p> <p>25 A. Yes, we -- I talked with deputies.</p>

3 (Pages 9 to 12)

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

Case 2:17-cv-04057-NKL Document 153-8 Filed 02/09/18 Page 4 of 77

Page 13	Page 15
<p>1 <b>Q. Okay. And particular people -- you</b>  2 <b>said deputies that work in your office?</b>  3 A. Yes.  4 <b>Q. Who are those individuals?</b>  5 A. Deputy director Greg Mermelstein.  6 Deputy director Joel Elmer.  7 <b>Q. Okay. And besides the documents that</b>  8 <b>you've already named, did you review any other</b>  9 <b>documents?</b>  10 A. No.  11 <b>Q. Okay. Mr. Barrett, are -- by whom are</b>  12 <b>you employed?</b>  13 A. State of Missouri, Missouri State  14 Public Defender system.  15 <b>Q. And what is your official title?</b>  16 A. I'm the director of the Missouri State  17 Public Defender system.  18 <b>Q. And how long have you served as</b>  19 <b>director of the Missouri State Public Defender</b>  20 <b>system?</b>  21 A. I began in this role on or about June 1  22 of 2015.  23 <b>Q. And can you describe for us your</b>  24 <b>professional responsibility prior to joining the</b>  25 <b>public defender's office?</b></p>	<p>1 a brief stint as deputy chief of staff when there  2 was a vacancy.  3 <b>Q. And who was the governor when you</b>  4 <b>worked in that office?</b>  5 A. Jeremiah "Jay" Nixon.  6 <b>Q. Can you describe your current job</b>  7 <b>responsibilities as director of the state public</b>  8 <b>defender's office?</b>  9 A. Sure. I have to -- part of my  10 responsibilities is to implement the operating  11 budget. That is pulled together by the comptroller  12 of the public defender system, passed by the general  13 assembly.  14 I have to allocate resources throughout  15 the state to make sure to the best of our ability  16 that there is lawyers to handle cases that come in  17 through the door in order to fulfill the rights of  18 indigent accused.  19 I have to make sure that the lawyers  20 under my charge practice within the rules of  21 professional responsibility. I have to make sure  22 that we are following state and federal law as  23 relates to employees.  24 I have to report out to the Public  25 Defender Commission, who I report to on -- at least</p>
Page 14	Page 16
<p>1 A. Prior to joining the public defender's  2 office?  3 <b>Q. Correct.</b>  4 A. Well, I held another position within  5 the system prior to being director. Would you like  6 me to speak to that?  7 <b>Q. Please.</b>  8 A. I was for about a period of one year  9 before being appointed as the director, served as  10 general counsel.  11 <b>Q. And prior to that?</b>  12 A. I worked for the State Emergency  13 Management Agency.  14 <b>Q. Okay. How long did you work for that</b>  15 <b>agency?</b>  16 A. Approximately seven months.  17 <b>Q. And prior to joining that agency were</b>  18 <b>you working here in Missouri?</b>  19 A. I was. I was working in the office of  20 the governor.  21 <b>Q. Okay. And what was your job title in</b>  22 <b>the governor's office?</b>  23 A. Deputy general counsel.  24 <b>Q. How long did you hold that position?</b>  25 A. A little more than two years, including</p>	<p>1 on a quarterly basis. Those are my general -- I am  2 responsible for hiring and firing decisions.  3 <b>Q. And when you report to the Public</b>  4 <b>Defender Commission, what kinds of things are you</b>  5 <b>sharing with -- with the commission?</b>  6 A. Sure. So the general practice is we  7 have a quarterly meeting that is noticed up to the  8 public pursuant to the sunshine law. The -- there's  9 currently -- there's seven positions, three of which  10 are vacant. So there's four active members of the  11 Public Defender Commission.  12 When we pull together an agenda I  13 propose it to the chair of the commission for his  14 approval. Those things typically include caseload  15 reports, whether cases are going up or down, such  16 things as current operating budget, how we're doing  17 this far into the fiscal year.  18 Are we ahead, are we behind in terms of  19 projections? Some personnel issues with say for  20 closed session, of course. Other -- other issues  21 that are relevant to that date and time, whether  22 it's our participation in certain initiatives or  23 cases that we're dealing with.  24 Other issues could be facility reports  25 for the reason that we do not control where our</p>

4 (Pages 13 to 16)

<p style="text-align: right;">Page 17</p> <p>1 offices are. Those are controlled by the 2 jurisdictions that we serve and presents a number of 3 problems. 4       So we report out on that. Each one of 5 the division directors and deputies will report out. 6 For instance, we have a trial division director. 7 She will report out on what's going on in her 8 division. 9       Deputy will report out on what's going 10 on in appellate or PCR as well as juvenile cases. 11 These are the types of things that regularly occur 12 on the agenda for commission meetings. 13       <b>Q. So I want to return to the structure of</b> 14 <b>the public defender's office in a minute, but first</b> 15 <b>you were hired by the Public Defender Commission; is</b> 16 <b>that correct?</b> 17       A. That is correct. 18       <b>Q. And what role, if any, does the</b> 19 <b>commission play in the day-to-day operations of your</b> 20 <b>office?</b> 21       A. They don't play a large role in the 22 day-to-day operations. When there's something going 23 on that -- that I'd like to keep the commission 24 informed on, I will -- if nothing else, a courtesy 25 to the chair, brief him, but they are really</p>	<p style="text-align: right;">Page 19</p> <p>1 evaluation. 2       <b>Q. You do receive verbal feedback, though,</b> 3 <b>from the commission?</b> 4       A. Yes. 5       <b>Q. So let's talk a little bit about the</b> 6 <b>structure of the office which you refer to in</b> 7 <b>your -- one of your previous answers. Can you talk</b> 8 <b>about how the office, the district offices are set</b> 9 <b>up and what their relationship is to the central</b> 10 <b>office?</b> 11       A. Sure. So we are a statewide system. 12 Not all public defender systems are statewide. And 13 so we have several divisions. Let's start with 14 central management. We have several divisions. 15       We have a trial division, which 16 represents the lion's share of our cases. We have 17 an appellate PCR division. We have a capital and 18 division that also includes juvenile LWOP cases. 19       (Court reporter interruption.) 20       THE WITNESS: I'm sorry, life without 21 parole cases, LWOP. My bad, sorry. 22       MR. QUINLAN: I'm sorry. I apologize. 23 Can you just start that -- the name of that office 24 again over for me? 25       A. Sure. My apologies. The last is the</p>
<p style="text-align: right;">Page 18</p> <p>1 responsible statutorily for approving the budget, 2 and they have a number of other statutory 3 requirements, such as to do some advocacy for us and 4 our mission, as well as to prove some pay structure 5 within the system. 6       <b>Q. And is that advocacy with respect to</b> 7 <b>the legislature or the general public or -- or some</b> 8 <b>other --</b> 9       A. I think it's all-encompassing, but I 10 think the legislature is, if my memory serves me, 11 specifically enumerated in the statute. 12       <b>Q. Now, is the commission responsible for</b> 13 <b>evaluating your job performance?</b> 14       A. Well, I can say this. They have -- 15 they hired me and they have the ability to fire me 16 for cause. 17       <b>Q. Did they conduct any kind of formal</b> 18 <b>evaluations of -- of your work or of the work of the</b> 19 <b>office?</b> 20       A. I have not received a formal 21 evaluation. They have shared in the past when, you 22 know, we -- they think we are doing something well 23 and when they think we're -- we can improve. So to 24 that extent they share those things during the 25 commission meeting, but I have not received a formal</p>	<p style="text-align: right;">Page 20</p> <p>1 capital division, which also handles juvenile life 2 without parole cases, and that's because both of 3 those cases, capital and juvenile, LWOP, require 4 mitigation. 5       So underneath me in the organizational 6 chart you'll -- you'll see those three divisions 7 listed. Within those divisions, as I mentioned, 8 trial division is our largest division. 9       We have 30 some odd trial division -- 10 offices throughout the state and some areas where 11 there is -- where it is highly populated, for 12 instance, St. Louis or St. Louis County, Greene, or 13 Kansas City. The -- the local office, what's 14 referred to as the area, area, and then a number 15 will handle just one county. 16       However, in some other areas of the 17 state that are less populated one area office will 18 handle any number of counties. Could be up to nine 19 I think is our maximum. The local office is -- is 20 run or managed by a position called a district 21 defender. District defender is responsible for the 22 local office, including assignment of cases, 23 managing their local office budget, etc. 24       <b>Q. And there are 114 counties in Missouri?</b> 25       A. Including -- and then the state -- city</p>

5 (Pages 17 to 20)

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

Case 2:17-cv-04057-NKL Document 153-8 Filed 02/09/18 Page 6 of 77

<p style="text-align: right;">Page 21</p> <p>1 of St. Louis.</p> <p>2 <b>Q. And there are 33 separate areas or</b></p> <p>3 <b>district offices?</b></p> <p>4 A. I believe that's correct, yes.</p> <p>5 <b>Q. Okay. And can you talk a little bit</b></p> <p>6 <b>about how your office handles conflict cases?</b></p> <p>7 A. Yes. So we have -- when there's a</p> <p>8 conflict -- by way of an example, if there's a</p> <p>9 robbery, arrest for a robbery involving two</p> <p>10 defendants in Columbia, for example. Obviously that</p> <p>11 local office, the Columbia trial office can only</p> <p>12 represent one individual.</p> <p>13 That second defendant would ordinarily</p> <p>14 be represented by the public defender system if they</p> <p>15 are indigent, but by another public defender office.</p> <p>16 Whether it's the Cole County office, the Fulton</p> <p>17 office, or the Sedalia office.</p> <p>18 When we have the funds, we contract out</p> <p>19 that second defendant to the extent that we are able</p> <p>20 to to a private lawyer who practices in the</p> <p>21 jurisdiction where the crime allegedly occurred.</p> <p>22 This keeps the public defender who -- in that second</p> <p>23 office from having to drive to another county to</p> <p>24 represent one, two, or a handful of individuals.</p> <p>25 <b>Q. And how often generally speaking is it</b></p>	<p style="text-align: right;">Page 23</p> <p>1 funds to essentially contract out all conflict cases</p> <p>2 to the extent that lawyers, private lawyers are</p> <p>3 available and willing to take the cases in the</p> <p>4 state. We are currently in the process of</p> <p>5 administering that effort.</p> <p>6 <b>Q. So as it stands today, do you know how</b></p> <p>7 <b>many districts or areas are participating in this</b></p> <p>8 <b>Code 49 program?</b></p> <p>9 A. I believe that all of them are.</p> <p>10 <b>Q. Okay.</b></p> <p>11 A. It is fluid in that from week to week</p> <p>12 we have new private lawyers enter the program and</p> <p>13 withdraw from the program. As I stated, deputy</p> <p>14 director Joel Elmer will be able to speak more</p> <p>15 specifically on Code 49.</p> <p>16 <b>Q. Okay. And just to be clear, outside of</b></p> <p>17 <b>the Code 49 program, when -- when one district is --</b></p> <p>18 <b>or area is responsible for handling conflict cases</b></p> <p>19 <b>in -- in other counties, is it true that the -- the</b></p> <p>20 <b>districts are assigned specific counties to handle</b></p> <p>21 <b>in the event that conflicts arise?</b></p> <p>22 A. Yes. For instance, one office will be</p> <p>23 responsible for their -- the county in which they</p> <p>24 sit, and if it's a rural area additional counties,</p> <p>25 but then above and beyond that as you stated, there</p>
<p style="text-align: right;">Page 22</p> <p>1 <b>the case that you have the -- the funds to hire</b></p> <p>2 <b>contract lawyers as opposed to having lawyers in</b></p> <p>3 <b>other districts handle conflict cases?</b></p> <p>4 A. So going back two years to 2015, we</p> <p>5 were set to receive funds, additional funds to the</p> <p>6 tune of \$3.47 million that was appropriated by the</p> <p>7 legislature for the purposes of handling these types</p> <p>8 of conflict cases. I believe this program that we</p> <p>9 run is called Code 49.</p> <p>10 Deputy director Joel Elmer will be able</p> <p>11 to speak more specifically on that program. At the</p> <p>12 time we were -- there were several counties in our</p> <p>13 Code 49 program, but it was not a robust program. I</p> <p>14 don't know how many counties were in it, but when we</p> <p>15 were set to receive the 3.47 million, it was for the</p> <p>16 purposes of putting more counties in Code 49.</p> <p>17 That means more counties were going to</p> <p>18 have their conflict cases contracted out to private</p> <p>19 counsel. That money, that funding was vetoed. The</p> <p>20 legislature overrode the veto, but then those funds</p> <p>21 were withheld.</p> <p>22 We did not receive additional funds the</p> <p>23 second -- the subsequent year for purposes of Code</p> <p>24 49 or contracting out conflict cases, but in the</p> <p>25 last legislative cycle we did receive additional</p>	<p style="text-align: right;">Page 24</p> <p>1 are additional counties that they are responsible</p> <p>2 for handling conflict cases in.</p> <p>3 <b>Q. And you said that a -- any particular</b></p> <p>4 <b>district office could have up to nine I think you</b></p> <p>5 <b>said counties that encompass the -- a district?</b></p> <p>6 A. My recollection is the Chillicothe</p> <p>7 office handles nine counties. I could be mistaken,</p> <p>8 but that's my recollection is the most number of</p> <p>9 counties covered by an area office.</p> <p>10 <b>Q. Okay. And then those offices will have</b></p> <p>11 <b>a number -- multiple counties that they're -- where</b></p> <p>12 <b>they're responsible for handling conflicts above and</b></p> <p>13 <b>beyond the -- however many counties encompass that</b></p> <p>14 <b>district?</b></p> <p>15 A. I believe that's the case, but it</p> <p>16 varies for each --</p> <p>17 <b>Q. Sure.</b></p> <p>18 A. -- office.</p> <p>19 <b>Q. Right. Okay. I just want to return</b></p> <p>20 <b>for a second to -- I asked you about the</b></p> <p>21 <b>commission's role in -- in your office's work. Are</b></p> <p>22 <b>there any other state officials outside of the MSPD</b></p> <p>23 <b>office that have any kind of authority over the work</b></p> <p>24 <b>that you do?</b></p> <p>25 A. I should mention that by statute we are</p>

6 (Pages 21 to 24)



<p style="text-align: right;">Page 25</p> <p>1 an independent department within the judicial 2 branch. So we have some relationship to the 3 judiciary, but the statute also states that we are 4 independent. I receive no operational control from 5 any other entity other than the Public Defender 6 Commission.</p> <p>7 <b>Q. Okay. Can you talk a little bit about</b> 8 <b>your -- the MSPD's relationship with the governor's</b> 9 <b>office with respect to budgeting or other</b> 10 <b>operational issues?</b></p> <p>11 A. Yes, I can. It's -- and the person 12 who's most prepared to talk about this is the 13 comptroller Kathy Lear, but sometime in the process 14 for budgeting is MSPD prepares a draft budget 15 request to submit to the Public Defender Commission, 16 which we typically do at the September meeting.</p> <p>17 The Public Defender Commission then 18 votes on whether to approve or not approve or make 19 changes to the draft budget request. Once approved, 20 that draft budget request is then submitted to the 21 legislature and to the governor's office.</p> <p>22 I believe then the governor's office 23 uses these submittals in order to prepare the -- the 24 recommend -- budget recommendations, the governor's 25 budget recommendations to the legislature.</p>	<p style="text-align: right;">Page 27</p> <p>1 Sometimes the number of cases would 2 suggest to me that an additional position is 3 necessary, but there is no space in that office to 4 put another person.</p> <p>5 <b>Q. So in that instance even if you have</b> 6 <b>the funding to hire an additional attorney for that</b> 7 <b>office, you're not able to make that hire?</b></p> <p>8 A. Right. That's one instance. Another 9 instance is approving a position for an office, but 10 being unable to hire a person for that position. 11 For instance, we've had at least one office where 12 we've had a vacancy for a year because of the lack 13 of interest in applicants.</p> <p>14 <b>Q. Okay. And do the district offices</b> 15 <b>provide any kind of budget proposals to Kathy Lear</b> 16 <b>or to you, anyone in your office?</b></p> <p>17 A. Not directly to me. That might be a 18 question for Kathy Lear.</p> <p>19 <b>Q. I want to ask you just a couple of</b> 20 <b>questions about the district defenders. All of the</b> 21 <b>district defenders ultimately report to you,</b> 22 <b>correct?</b></p> <p>23 A. Well, from the organizational chart and 24 chain of command they would report -- for instance, 25 the trial division, they would report to the trial</p>
<p style="text-align: right;">Page 26</p> <p>1 <b>Q. Okay. Do you receive any feedback from</b> 2 <b>the governor's office regarding your proposal or do</b> 3 <b>they just receive it and --</b></p> <p>4 A. I have not. In my experience I 5 typically just receive it. I don't think that 6 prevents the governor's office from having 7 conversations, but I have not -- in my experience I 8 have not had conversations.</p> <p>9 <b>Q. Okay. Now, is it your responsibility</b> 10 <b>as director to determine how to allocate the funds</b> 11 <b>to the various district offices around the state?</b></p> <p>12 A. Yes.</p> <p>13 <b>Q. Okay. How do you go about making those</b> 14 <b>allocation decisions?</b></p> <p>15 A. Well, this is something I task the 16 comptroller with, Kathy Lear, and I believe she 17 looks at prior year cases to pull together a budget. 18 That also includes funding for anticipated travel to 19 the extent that they have to cover -- that office 20 has to cover a number of counties.</p> <p>21 She prepares a budget for each office. 22 That then goes to each district defender who 23 administers. And the primary driver of that budget 24 is the caseload. Another factor is the available 25 space, the office space for that office.</p>	<p style="text-align: right;">Page 28</p> <p>1 division director.</p> <p>2 <b>Q. And the trial division director would</b> 3 <b>then report to you?</b></p> <p>4 A. In the ordinary course she would report 5 to a deputy, but in practice, in practice she 6 typically reports directly to me because the way the 7 work is assigned.</p> <p>8 <b>Q. And who is the trial division director?</b></p> <p>9 A. Her name is Ellen Blau. E-L-L-E-N. 10 Blau, B-L-A-U.</p> <p>11 <b>Q. Okay. And are you involved at all in</b> 12 <b>the supervision of those district defenders?</b></p> <p>13 A. Not by -- not direct supervision by 14 design of the position. However, I make it a 15 practice to travel to local offices, sit in on staff 16 meetings, listen to concerns. When I learn that 17 there's an issue in an office, I will often directly 18 interact with the management in that office, but not 19 by design, but by practice.</p> <p>20 <b>Q. How often are you able to make those --</b> 21 <b>those kind of visits?</b></p> <p>22 A. It occurs more frequently when the 23 legislature is not in session. There is no normal 24 from week to week. In one week I could visit 25 upwards of three offices. In another week none</p>

7 (Pages 25 to 28)



<p style="text-align: right;">Page 29</p> <p>1 depending where -- what I'm facing in terms of my 2 schedules or to dos, but I try to at least visit an 3 office a week.</p> <p>4 <b>Q. And you said you -- you would</b> 5 <b>typically, in terms of deciding what offices to</b> 6 <b>visit, if you're made aware of an issue in a</b> 7 <b>particular office, that may be one that -- that you</b> 8 <b>prioritize; is that right?</b></p> <p>9 A. Yes.</p> <p>10 <b>Q. And how -- how would you generally be</b> 11 <b>made aware of -- of an issue that would require your</b> 12 <b>intervention?</b></p> <p>13 A. It can happen any number of ways, but 14 the management of that office may call our central 15 office. We refer to it as Woodrail because that's 16 the name of the office complex, either by call from 17 the local office to Ms. Shipma, our general counsel, 18 or to our human resources department, or vis-à-vis 19 an e-mail from a local office or a phone call 20 directly to me or to Ms. Blau saying there are 21 concerns, or employees sometimes could use a little 22 pep talk, and -- and then I try to make an effort to 23 visit or call in during a -- or -- scheduled staff 24 meeting.</p> <p>25 <b>Q. Okay. This may be a question that --</b></p>	<p style="text-align: right;">Page 31</p> <p>1 certainty, but if my recollection serves me, that's 2 the case.</p> <p>3 <b>Q. One other funding question. Do the</b> 4 <b>district offices receive any funding whatsoever from</b> 5 <b>any other source besides the -- the central office?</b></p> <p>6 A. I don't believe so. I know that the 7 St. Louis office participates in several grants. I 8 think most of those grants, if not all of them, 9 involve not funds but, for instance, a social worker 10 to help with cases.</p> <p>11 The legislature I believe imposes a 12 limit on the number of dollars that we can bring in 13 from outside resources. I believe that's 125,000 or 14 150,000. I'm not sure.</p> <p>15 Kathy Lear would know for sure. But I 16 don't -- I do not think that we receive any outside 17 funds for, say, a private organization or federal 18 government.</p> <p>19 <b>Q. And/or local government, county</b> 20 <b>government or --</b></p> <p>21 A. Well, we -- we do receive the office 22 space.</p> <p>23 <b>Q. The office space, okay.</b></p> <p>24 A. And I believe in Kansas City we have 25 some involvement in drug court, and I believe the --</p>
<p style="text-align: right;">Page 30</p> <p>1 <b>that should be directed to Ms. Blau, but is it your</b> 2 <b>understanding that district defenders are expected</b> 3 <b>to carry their own caseload?</b></p> <p>4 A. They oftentimes -- they -- in all but 5 one circumstance I believe they do. I as director 6 do not impose any requirements on a division -- on a 7 district defender in terms of you must carry a 8 caseload and you must carry caseload that looks -- 9 that has X number of cases.</p> <p>10 Because we have small, medium, and 11 large offices they have varied management 12 responsibilities. They also have responsibilities 13 under the rules of professional conduct to oversee 14 the lawyers in their charge.</p> <p>15 Given the number of cases their office 16 handles, the number of counties their office 17 handles, whether they have new attorneys or senior 18 attorneys, these are all factors that go into the 19 size of their caseload, but I will say that all the 20 district defenders save one has an active caseload 21 that I'm aware of.</p> <p>22 <b>Q. Do you -- do you know which one does</b> 23 <b>not?</b></p> <p>24 A. I believe Kansas City district defender 25 does not. I can't say with a hundred percent</p>	<p style="text-align: right;">Page 32</p> <p>1 the local jurisdiction may cover that cost or some 2 cost associated with that if I'm not mistaken.</p> <p>3 <b>Q. And to be clear, the -- the counties</b> 4 <b>are providing the office space, they're not paying</b> 5 <b>for overhead, or are they?</b></p> <p>6 A. I don't believe they're paying for 7 overhead.</p> <p>8 <b>Q. So just the space itself?</b></p> <p>9 A. I -- I believe so. As to electricity, 10 I don't know the answer to that. That's a Kathy 11 Lear question.</p> <p>12 <b>Q. Okay.</b></p> <p>13 A. It might -- I will say this. It might 14 vary from jurisdiction to jurisdiction. In some 15 jurisdictions we -- we do not have privity of 16 contract on the -- on the lease, and so we don't 17 always know what the terms are as to who's paying 18 for what. It varies by jurisdiction.</p> <p>19 <b>Q. How much discretion do chief -- or</b> 20 <b>district defenders have with respect to setting</b> 21 <b>policy in their respective offices?</b></p> <p>22 A. They have some because each circuit, 23 judicial circuit has its own culture. I'll give you 24 by way of example, if a given circuit starts -- has 25 court earlier than other jurisdictions they could</p>

8 (Pages 29 to 32)

Page 33	Page 35
<p>1 amend policies to require attorneys to be there 2 earlier.</p> <p>3 We generally require I believe approval 4 before they impose policy, but there are a number of 5 policies that existed in local offices prior to my 6 joining the system. So I'm not always aware of the 7 local policies that are in place, but they have 8 some.</p> <p>9 <b>Q. Do they have discretion around how -- 10 how they allocate the funds that are given to them 11 from the central office?</b></p> <p>12 A. I believe that Kathy Lear comes up with 13 a budget for each one of them that is lined out. 14 The -- we have -- Missouri State Public Defender 15 system has a hundred percent flexibility in our 16 budget. It's not commonplace, but it gives us the 17 ability to get through the fiscal year.</p> <p>18 I believe the district defender works 19 directly with Kathy Lear in the event that they need 20 to make changes to how their local budget is 21 administered, but there is some flexibility, yes.</p> <p>22 <b>Q. And so you said that the public 23 defender's office has 100 percent flexibility say to 24 move funds from here to there as necessary?</b></p> <p>25 A. Yes, we -- I believe Kathy Lear needs</p>	<p>1 <b>there discretion with respect to staffing, either 2 the number of attorneys or support staff, 3 investigators?</b></p> <p>4 A. That goes through me.</p> <p>5 <b>Q. Okay.</b></p> <p>6 A. If they need additional staffing, they 7 will need to make the request. It's not just a 8 question of whether there is money -- money 9 available. In addition to providing funds, the 10 legislature also sets a cap on how many what's 11 called full-time equivalents or FTEs we're able to 12 use. And so we need to make sure that there's a FTE 13 available.</p> <p>14 And so if a -- if an office, if an area 15 needs an additional FTE, whether it's an attorney, 16 whether it's a support staff position, to include an 17 investigator, they'll make their case to me. And 18 there's a number of factors that we look at to 19 determine whether it's approved. It's very rare 20 that they get additional staffing.</p> <p>21 <b>Q. Do you -- let me back up. 22 I assume it is the legislature that 23 created these limitations, the FTE limitations?</b></p> <p>24 A. Yes.</p> <p>25 <b>Q. Do you -- do you know what the</b></p>
Page 34	Page 36
<p>1 to get -- provide notification to the office of 2 administration. There is a budget analyst who is 3 assigned to each department in the state and it 4 requires their approval, but yes, we have -- the 5 hundred percent flexibility that we've had is 6 probably our best tool for getting through each year 7 because we can't predict with much accuracy whether 8 litigation expenses for the coming fiscal year will 9 be higher or lower than we anticipated.</p> <p>10 It's based on, you know, how quickly 11 cases go to trial, particularly cases that involve a 12 lot of litigation expenses, death penalty cases, sex 13 offender type cases. So we need that flexibility.</p> <p>14 <b>Q. And you said that that flexibility is 15 rare among agencies, among state agencies?</b></p> <p>16 A. I believe so. I know the court system 17 has some flexibility, but not as much as we do.</p> <p>18 <b>Q. And is it your understanding that the 19 reason that you have that flexibility are for the 20 reasons that you just stated, the uncertainties 21 around caseloads?</b></p> <p>22 A. Yeah. We don't know how many cases are 23 going to come in through the door.</p> <p>24 <b>Q. Okay. Back to the district defenders 25 for a second. Is there -- in your understanding, is</b></p>	<p>1 <b>rationale was behind those limitations?</b></p> <p>2 A. Well, I think the legislature, it's -- 3 it's their responsibility to control the size of 4 state government, and in addition, the one thing 5 that our budget does not cover is fringe benefits, 6 pension, insurance.</p> <p>7 And so if we had the cash and we just 8 added people, that would essentially add obligations 9 on the state. And for that reason I believe that 10 they control additionally the number of FTEs.</p> <p>11 <b>Q. Understood. Because employees who are 12 not full-time do not get those fringe benefits?</b></p> <p>13 A. Well, I think there's a threshold for 14 when someone is eligible for benefits. But if I 15 added five people tomorrow, that would be five 16 additional people that the state would have to pay 17 insurance for, pensions for, etc., and so for that 18 reason they control the number of FTEs.</p> <p>19 <b>Q. Okay. Do district defenders have 20 discretion with respect to the use of investigators 21 in their office?</b></p> <p>22 A. The use of investigators?</p> <p>23 <b>Q. Correct.</b></p> <p>24 A. Yes.</p> <p>25 <b>Q. So not just the -- whether or not</b></p>

9 (Pages 33 to 36)

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

Case 2:17-cv-04057-NKL Document 153-8 Filed 02/09/18 Page 10 of 77

<p style="text-align: right;">Page 37</p> <p>1 <b>investigators or how many investigators are on</b>  2 <b>staff, but how those investigators are used?</b>  3 A. Yes.  4 <b>Q. Yes. And do the district defenders</b>  5 <b>have discretion with respect to when it is</b>  6 <b>appropriate or not to refuse to -- refuse case</b>  7 <b>appointments from a court?</b>  8 A. Well, it's a bottom-up type thing in  9 that each lawyer is responsible to practice within  10 the rules of professional responsibility or  11 professional conduct. Additionally, managers have  12 responsibilities under the rules of professional  13 conduct as well as it relates to competence,  14 diligence, etc.  15 (Court reporter interruption.)  16 A. Competence, diligence, etc.  17 <b>Q. (By Mr. Williamson) And if an</b>  18 <b>individual lawyer raises a concern about taking</b>  19 <b>additional cases, are they required to take that</b>  20 <b>concern to the district defender?</b>  21 A. That's my understanding.  22 <b>Q. And then it's up to the district</b>  23 <b>defender to decide how to proceed?</b>  24 A. Within the rules of professional  25 conduct, yes.</p>	<p style="text-align: right;">Page 39</p> <p>1 for someone who says that they are not available  2 because they have -- their caseload is such that  3 they can't take any more work.  4 <b>Q. And can assistant public defenders only</b>  5 <b>be terminated with your approval?</b>  6 A. Yes. That's my communication to staff,  7 yeah.  8 <b>Q. Okay. Is it your understanding that</b>  9 <b>these internal policies within the district offices</b>  10 <b>are -- are all in writing?</b>  11 A. There might be cultural policies as  12 well that date back to a time that no one can put  13 their finger on, but -- but I know a number of  14 offices have written policies.  15 <b>Q. And those policies don't necessarily</b>  16 <b>have to be approved by your office or do they?</b>  17 A. I don't remember communicating a  18 directive on -- that I have to approve all local  19 policies for the simple reason that I've approved  20 very few. One of the ones that I do approve and we  21 do have a policy on that I'm regularly engaged in is  22 when we hire someone, one -- one of the questions we  23 ask is are you able to wind down your existing  24 practice, dispose of your existing cases before  25 joining the public defender system. That is the</p>
<p style="text-align: right;">Page 38</p> <p>1 <b>Q. Does the district defender have to give</b>  2 <b>that lawyer permission to refuse cases?</b>  3 A. No. They shouldn't. It's the  4 individual lawyer's obligation. I believe there is  5 some flexibility for the manager to engage the  6 person to make sure that they're working hard,  7 they're working sufficient number of hours, to see  8 if they can do things better, etc., to make sure  9 that they are unable to take additional cases, but  10 ultimately it's my understanding under the rules  11 that that obligation rests on the individual  12 attorney.  13 <b>Q. And those individual attorneys cannot</b>  14 <b>be fired by the district defender as a result of</b>  15 <b>refusing to take cases?</b>  16 A. They should not be fired for  17 practicing -- an effort to attempt to practice  18 ethically. If they are -- if they can take more  19 cases and they simply are not pulling their weight,  20 assuming there's room within the rules to -- for  21 additional work, then yes, you can terminate -- you  22 can in turn terminate an employee for not working  23 hard enough, not being diligent in the number -- in  24 the cases that they have.  25 But I would not authorize a termination</p>	<p style="text-align: right;">Page 40</p> <p>1 preferred situation.  2 There are sometimes instances where  3 someone is unable to wind down a case and they will  4 seek approval to bring that case with them, provided  5 that they don't use any MSPD time or resources to  6 work on that case, that they share with us the  7 extent of their representation, and that the scope  8 of that representation does not widen after  9 approval. Those are instances where they will need  10 to get our approval.  11 <b>Q. Thank you. I want to ask you just a</b>  12 <b>few questions about the assistant public defenders,</b>  13 <b>although I realize you -- you may not have a whole</b>  14 <b>lot of contact with -- with them individually. And</b>  15 <b>we've touched on some of this already. How much</b>  16 <b>discretion are individual assistant public defenders</b>  17 <b>given to determine the best way to represent their</b>  18 <b>client in a particular case?</b>  19 A. Well, as it relates to me there's a  20 statute. I don't know the number, but it prohibits  21 me from directing a lawyer in any way, shape, or  22 form with respect to their representation of an  23 individual.  24 So as it relates to the director, I  25 don't have the ability to direct them, just that</p>

10 (Pages 37 to 40)

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

Case 2:17-cv-04057-NKL Document 153-8 Filed 02/09/18 Page 11 of 77

Page 41	Page 43
<p>1 they follow the rules, professional response --</p> <p>2 conduct which requires certain things, such as</p> <p>3 seeing your clients, investigating the case, etc.</p> <p>4 <b>Q. Do you know whether that statute</b></p> <p>5 <b>prohibits just you from -- from directing those</b></p> <p>6 <b>attorneys or does that also include the district</b></p> <p>7 <b>defender?</b></p> <p>8 A. My recollection is that it's -- it just</p> <p>9 states me.</p> <p>10 <b>Q. And those assistant public defenders</b></p> <p>11 <b>are generally supervised by -- you made reference</b></p> <p>12 <b>earlier to a manager in those district offices?</b></p> <p>13 A. Well, in -- in a large office like</p> <p>14 Kansas City they will be under a team leader. They</p> <p>15 have a team leader in Kansas City. In some offices</p> <p>16 that are more medium-sized or even -- and larger</p> <p>17 will have both a district defender and a deputy</p> <p>18 district defender.</p> <p>19 It's up to them how they divide their</p> <p>20 responsibilities. So some will break up their staff</p> <p>21 and have half report to a deputy, half report to the</p> <p>22 district defender. But it's up to them.</p> <p>23 <b>Q. And in terms of what that oversight</b></p> <p>24 <b>includes, would we need to talk with individual</b></p> <p>25 <b>district defenders to determine the kinds of things</b></p>	<p>1 <b>taken to trial by an individual attorney?</b></p> <p>2 A. In the trial division we want -- when</p> <p>3 someone -- there's four different levels for</p> <p>4 attorneys who are nonmanagement positions. There's</p> <p>5 assistant public defender I, APD II, APD III, and</p> <p>6 APD IV.</p> <p>7 When you get to the higher levels,</p> <p>8 three and four, we want to see that you are able to</p> <p>9 go to trial and have the skills to go to trial</p> <p>10 because you're in the trial division and -- and we</p> <p>11 don't want to promote someone to a higher level</p> <p>12 within the system unless they have trial skills.</p> <p>13 This proves sometimes to be a challenge</p> <p>14 because in some jurisdictions it's the culture or</p> <p>15 the practice that very few cases actually go to</p> <p>16 trial. My understanding of our numbers is that in</p> <p>17 the last two years only one percent of cases of</p> <p>18 among our total number go to trial.</p> <p>19 MR. QUINLAN: I'm sorry, you say one</p> <p>20 percent?</p> <p>21 A. One percent.</p> <p>22 <b>Q. (By Mr. Williamson) How do you factor</b></p> <p>23 <b>in caseloads in your evaluation of individual public</b></p> <p>24 <b>defenders?</b></p> <p>25 A. I'm not sure that I'm aware that we do.</p>
Page 42	Page 44
<p>1 <b>assistant public defenders are evaluated on? Does</b></p> <p>2 <b>that vary from office to office?</b></p> <p>3 A. Yes. I mean, there's -- there's more</p> <p>4 uniformity when it comes to being approved for</p> <p>5 promotion.</p> <p>6 <b>Q. What kinds of things do you consider in</b></p> <p>7 <b>that instance?</b></p> <p>8 A. Well, one of the things is client</p> <p>9 contact. Do you talk to your client? How often do</p> <p>10 you see your client? I believe we have a standard</p> <p>11 of within the first seven days is initial conduct --</p> <p>12 contact, and then to the best of my recollection</p> <p>13 it's every 30 days after.</p> <p>14 <b>Q. And -- and that is in your mind the --</b></p> <p>15 <b>the most important criteria?</b></p> <p>16 A. It's one of the few things that we</p> <p>17 could evaluate from an objective standpoint. And</p> <p>18 also the rules of professional conduct require, you</p> <p>19 know, regular contact with your client.</p> <p>20 Other things are skills which are more</p> <p>21 subjective, your ability to handle more serious</p> <p>22 types of cases, but probably the most objective</p> <p>23 thing is do you follow office rules and procedures</p> <p>24 and do you see your client.</p> <p>25 <b>Q. Do you consider the number of cases</b></p>	<p>1 <b>Q. Okay. And you talked about criteria</b></p> <p>2 <b>for -- for promotion. Does that suggest then that</b></p> <p>3 <b>assistant public defenders are not promoted just</b></p> <p>4 <b>based on number of years in the system or other</b></p> <p>5 <b>criteria?</b></p> <p>6 A. I believe the first promotion to APD II</p> <p>7 is primarily tenure driven. Obviously if you're</p> <p>8 creating mischief in the office or something like</p> <p>9 that, that would be at play as well, or not</p> <p>10 following policies, not showing up on time, not</p> <p>11 calling in or those things. But it's largely tenure</p> <p>12 driven and not skill driven. APD III and IV are --</p> <p>13 by contrast have both a tenure component as well as</p> <p>14 a skill component.</p> <p>15 MS. SHIPMA: Jason, I'd like to point</p> <p>16 out Joel Elmer will be able to give you more of the</p> <p>17 details of this.</p> <p>18 MR. WILLIAMSON: Okay. Fair enough.</p> <p>19 <b>Q. (By Mr. Williamson) And let me know if</b></p> <p>20 <b>this is something that Mr. Elmer can or should speak</b></p> <p>21 <b>to. If an assistant public defender has a complaint</b></p> <p>22 <b>regarding the size of their caseload, for example,</b></p> <p>23 <b>are they encouraged to submit those complaints to</b></p> <p>24 <b>the district defender or do those complaints come</b></p> <p>25 <b>directly to your office or is it some combination</b></p>

11 (Pages 41 to 44)

<p style="text-align: right;">Page 45</p> <p>1 <b>of -- of both?</b></p> <p>2 A. I think that takes a number of forms.</p> <p>3 I mean, it's our most pervasive problem in the</p> <p>4 system, high caseloads. It's my understanding that</p> <p>5 APDs throughout the state regularly make mention of</p> <p>6 the fact that they have too many cases. Not in</p> <p>7 every instance, of course, when they make mention of</p> <p>8 their high caseloads is it to me.</p> <p>9 It's primarily in their local office.</p> <p>10 I am fully aware, and when I meet with them it's</p> <p>11 typically brought up if I don't already concede</p> <p>12 knowing that it's a concern, and when someone leaves</p> <p>13 the system if they are willing to subject themselves</p> <p>14 to a -- an exit interview, it's what is almost</p> <p>15 always what they cite as the reason for leaving.</p> <p>16 Not -- may not be the exclusive reason, but it's the</p> <p>17 driver.</p> <p>18 <b>Q. Okay. And is there a formal -- I</b></p> <p>19 <b>understand it may not happen formally all the time,</b></p> <p>20 <b>but is there a formal complaint process for public</b></p> <p>21 <b>defenders?</b></p> <p>22 A. I don't believe there is. We -- in</p> <p>23 training, I know as part of training we say you --</p> <p>24 you need to report certain things to the HR</p> <p>25 department when there's concerns about harassment or</p>	<p style="text-align: right;">Page 47</p> <p>1 <b>Q. And do you have any follow-up</b></p> <p>2 <b>correspondence with the indigent defendant involved?</b></p> <p>3 A. That's a question for Greg Mermelstein.</p> <p>4 I believe we also utilize a database for tracking</p> <p>5 complaints that come in through the ombudsman</p> <p>6 program.</p> <p>7 <b>Q. So let's talk a little more</b></p> <p>8 <b>specifically about the funding that your office has</b></p> <p>9 <b>received. What is the -- your current operating</b></p> <p>10 <b>budget?</b></p> <p>11 A. The specific number, I don't know. I</p> <p>12 think -- I believe it's around 40 million. Kathy</p> <p>13 Lear would know specifics. In terms of my</p> <p>14 perspective on the budget, I think of it in terms of</p> <p>15 how many more dollars do I have this year than I did</p> <p>16 last year.</p> <p>17 <b>Q. So can -- can you speak to that?</b></p> <p>18 A. Yeah. So I began in 2015. That</p> <p>19 legislative cycle we were appropriated additional</p> <p>20 \$3.47 million from the legislature for purposes of</p> <p>21 having a more robust Code 49 program as I alluded to</p> <p>22 earlier.</p> <p>23 As I also mentioned, that increase in</p> <p>24 funding was vetoed by the then governor. The</p> <p>25 legislature overrode that veto, and then the</p>
<p style="text-align: right;">Page 46</p> <p>1 discrimination or those types of things, that we say</p> <p>2 you have to report these type of things, but not as</p> <p>3 it relates to caseload.</p> <p>4 <b>Q. Does your office receive complaints</b></p> <p>5 <b>directly from indigent defendants regarding the --</b></p> <p>6 <b>the quality of their representation?</b></p> <p>7 A. Yes, we do. We in addition to calls</p> <p>8 that the individual -- the indigent defendant often</p> <p>9 makes to their local office to the attorney who</p> <p>10 represents them and as well as to the district</p> <p>11 defender or deputy district defender, we utilize an</p> <p>12 ombudsman program.</p> <p>13 Deputy director Greg Mermelstein is in</p> <p>14 charge of the ombudsman program, where indigent</p> <p>15 defendants will call -- will call the Woodrill</p> <p>16 office, either talking to Marsha Plank or Greg</p> <p>17 Mermelstein or Greg Mermelstein's assistant Lisa</p> <p>18 McGee, and we will try to resolve the complaint to</p> <p>19 the best of our ability.</p> <p>20 A lot of times it has to do with not</p> <p>21 seeing the client for some time, not filing or not</p> <p>22 following the direction of the client as relates to</p> <p>23 filing certain motions. We will try to resolve it</p> <p>24 by Greg calling or e-mailing the specific attorney</p> <p>25 as well as the district defender for that office.</p>	<p style="text-align: right;">Page 48</p> <p>1 governor exercised his withhold authority on that</p> <p>2 additional funds.</p> <p>3 I believe the next year, 2016 calendar</p> <p>4 year, we were flat. We did not receive an increase,</p> <p>5 I believe. I believe that's the case. You know, I</p> <p>6 believe we received an additional million. Might</p> <p>7 have received an additional million dollars is my</p> <p>8 recollection.</p> <p>9 MR. QUINLAN: Fiscal 2016?</p> <p>10 THE WITNESS: I get them confused.</p> <p>11 That might have been fiscal 2017.</p> <p>12 MR. QUINLAN: And that's -- I'm sorry.</p> <p>13 THE WITNESS: The fiscal is a little</p> <p>14 ahead --</p> <p>15 MR. QUINLAN: As I understand it,</p> <p>16 fiscal year runs from July 1st to June 30th.</p> <p>17 THE WITNESS: July 1, yeah.</p> <p>18 MR. QUINLAN: So -- so 2016 fiscal year</p> <p>19 would run from July 1st of '15 to July 30th of '16,</p> <p>20 right?</p> <p>21 THE WITNESS: I think that's correct.</p> <p>22 MR. QUINLAN: So when you said -- when</p> <p>23 you started in -- I'm sorry.</p> <p>24 MR. WILLIAMSON: No, that's fine.</p> <p>25 MR. QUINLAN: When you started in 2015,</p>

12 (Pages 45 to 48)

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

Case 2:17-cv-04057-NKL Document 153-8 Filed 02/09/18 Page 13 of 77



Page 49	Page 51
<p>1 are you talk -- were you talk -- and the 3.74, was 2 that the 2015 or 2016 budget? 3 THE WITNESS: I think it was the 2016 4 fiscal year budget. 5 (Court reporter interruption.) 6 THE WITNESS: 2016 fiscal year budget. 7 MR. QUINLAN: I've had to deal with 8 that, so I thought it may help you. 9 MR. WILLIAMSON: No, I understand. 10 <b>Q. (By Mr. Williamson) So the</b> 11 <b>\$40 million -- roughly \$40 million budget that you</b> 12 <b>just mentioned that you're working with now is the</b> 13 <b>-- is the FY18 budget, correct?</b> 14 A. Yes. Yes. I think it might be a 15 little more than that. Kathy Lear would know, and I 16 think it's in -- might be in our operating budget, 17 but we received an additional \$4.5 million. 18 Now, the \$3.5 million as I mentioned 19 that we received in 2015 we never received. We 20 are -- we filed a lawsuit on that and we're still 21 litigating it. But for -- for this fiscal year that 22 we're operating in we have an additional 23 \$4.5 million. 24 We are doing three things with that 25 additional money. We are endeavoring to put every</p>	<p>1 for me to guess as to the motivating factor or 2 factors in the legislature making the decision, but 3 one of the things that I did communicate to them was 4 the increase in caseload that occurred from 2015 to 5 present day. 6 I think there was a one-year jump of, 7 if memory serves me, 12 percent, bringing us from 8 74,000 cases a year, rough number, to north of 9 80,000, I think closer to 82,000 cases. 10 And then in the subsequent year we 11 received an additional increase to the tune of a few 12 percentage points above and beyond that 12 percent 13 increase. And so any additional funds that we 14 received are in the context of more work having to 15 be done. 16 <b>Q. Do you have any sense of what is</b> 17 <b>driving the -- the increase in the caseloads?</b> 18 A. I can't speculate as to -- on that. I 19 would imagine it varies from jurisdiction to 20 jurisdiction. I can by way of one personal 21 experience answer that question. I recently visited 22 our Union office. 23 Although we had a statewide increase of 24 12 percent, the Union office jumped off the charts 25 because it had a -- I believe a two-year increase of</p>
Page 50	Page 52
<p>1 county in the state in that Code 49 program to the 2 extent as I mentioned earlier there are private 3 attorneys who are in the panel attorney program 4 willing to take cases. 5 Separately we are using a set amount of 6 funds to improve our IT infrastructure to include 7 wide area network, which I believe is broadband. 8 The reason we're doing that is we don't have 9 sufficient broadband to download a discovery or, for 10 instance, a police body cam video without disrupting 11 every computer in the -- in the office. 12 In addition, we are trying to hire ten 13 additional positions. We were given ten positions, 14 ten FTEs in 2015 as a part of that increase, which 15 was made part of our core budget going forward. 16 Although we were given the FTEs, we 17 were not given -- as I mentioned, we're -- the money 18 that was supposed to be used to fulfill those 19 positions was withheld. This is the first year that 20 we had the money to -- to fill those positions. Not 21 all of those positions have been filled. 22 <b>Q. Do you attribute the changes to your</b> 23 <b>budgetary needs from year to year to increases in</b> 24 <b>caseload or -- or other factors?</b> 25 A. I can't -- I -- it would be speculative</p>	<p>1 60 percent increase in the number of cases that we 2 received. I went there to try to kind of suss out 3 what was driving it. 4 I met with the local prosecutor in 5 addition to district defender Lisa Preddy, and he 6 told me that in part he was able to hire two 7 additional prosecutors. If memory serves me, that 8 allowed him to file more cases to include 9 misdemeanor cases that they previously were not able 10 to move forward on. 11 So I could say that in that 12 jurisdiction, based on the communication that I had 13 with the local prosecutor, that it had something to 14 do with being able to hire additional prosecutors. 15 I can't speculate as to what's driving it in other 16 jurisdictions. 17 I know in Springfield, which is the 18 office that we had the second highest increase in 19 our caseload, I believe it was around 25 or 20 26 percent memory serves me, they had recently 21 passed a one percent sales tax for the increase for 22 the purpose of public safety, hiring more law 23 enforcement officers, hiring more prosecutors. 24 The -- the consensus in the local 25 office from what I've heard from others and my own</p>

13 (Pages 49 to 52)

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

Case 2:17-cv-04057-NKL Document 153-8 Filed 02/09/18 Page 14 of 77



Page 53	Page 55
<p>1 opinion, that this has driven an increase in more 2 filings in that office.</p> <p>3 Of course, in both the Union office and 4 the Greene County office or the Springfield office, 5 as well as other offices, we did not receive any 6 corresponding funding to -- to match what was going 7 on in the local jurisdictions beyond the funding 8 that I mentioned earlier.</p> <p>9 <b>Q. Based on some of your prior responses,</b> 10 <b>I'm assuming that Kathy Lear would be the best</b> 11 <b>person to talk to about the budget proposal process?</b> 12 <b>Is that fair?</b></p> <p>13 A. Yeah. Yes, I spoke to it a little bit 14 earlier based in terms of the commission approval, 15 then the submission to the governor and the 16 legislature, but in terms of specifics, how she 17 pulls together the numbers that she does, it would 18 be questions related to her.</p> <p>19 In terms of what priorities are or in 20 what the overarching budget should look like, I play 21 a role in that. For instance, we had a study done 22 that was completed I believe in 2014 which was an 23 empirical data-driven study called the Missouri 24 Project Report performed by RubinBrown, accounting 25 firm, that established thresholds for how many hours</p>	<p>1 The American Bar Association thought 2 that Missouri was the -- the right state to have the 3 first caseload objectively -- objective data-driven 4 caseload study performed in to formulate new 5 data-driven empirically based caseload numbers.</p> <p>6 When that report came out, that is the 7 year, the next legislative cycle that we received 8 the increase of 3.47 million. So I will just put 9 those two together to suggest that it held some 10 weight. Separately, part of the budget process is 11 the House will pass -- there's two houses, the House 12 and the Senate.</p> <p>13 The House will pass its budget bill 14 first and then it will go to the Senate. Because 15 the number of budget bills and lines on budget bills 16 that the Senate has to review and make decisions on, 17 they will speed up the process by in Senate budget 18 committee looking at, one, the governor's 19 recommendation for each budget request, what the 20 House passed, and what the department requested.</p> <p>21 Typically when you sit in on that 22 budget hearing you will hear either House and close, 23 which means the Senate budget committee will go with 24 the House version and then move on to the next, or 25 governor's recommendation and closed, and more</p>
Page 54	Page 56
<p>1 we're supposed to spend on given cases by case type. 2 That -- that report provides some sort 3 of calculation where we could input our current 4 number or the last year's -- the previous fiscal 5 year's cases and by case type, then subtract out the 6 current resources we have, and that would yield how 7 many additional resources we need. That is the 8 primary driver of our budget formation is the 9 RubinBrown calculus.</p> <p>10 <b>Q. And is the -- is it your understanding</b> 11 <b>that the legislature has accepted those standards as</b> 12 <b>reasonable?</b></p> <p>13 A. I can't opine on that. I will say 14 two -- two things to that. There was some criticism 15 that preceded my involvement with MSPD as to how 16 these -- how our then numbers were calculated. We 17 received criticism in auditor Schweich's finding 18 about how numbers were pulled together.</p> <p>19 In addition, I know that the Senate 20 budget chair at the time had concerns because 21 Missouri was the only state I believe that had two 22 Supreme Court -- state Supreme Court cases that 23 discussed our caseload as well as an auditor finding 24 that challenged or raised some concerns related to 25 our -- our caseload standards at the time.</p>	<p>1 rarely go with the department request. 2 This past year the Senate budget 3 committee or Senate appropriations I should say, 4 that's the appropriate name for the committee, did 5 not go with the -- in committee did not go with the 6 House recommendation or the House-passed budget bill 7 for MSPD.</p> <p>8 It did not go with the governor's 9 recommendation, but went with the departmental 10 request given that the departmental request was 11 based in large part on the RubinBrown numbers.</p> <p>12 You may be able to make -- there might 13 be a tacit acknowledgment that they accepted the 14 numbers, but again, I'd only be speculating as to 15 what's in their -- their minds. After that point 16 because the House and the Senate differed on their 17 positions, it goes to a joint budget committee where 18 they reconcile their differences.</p> <p>19 <b>Q. And during this process you advocate at</b> 20 <b>the legislature for that additional funding; is that</b> 21 <b>correct?</b></p> <p>22 A. Yes. I -- I provide testimony both in 23 legislative budget committee hearings and I meet 24 privately with staffers and key members on 25 appropriations in the legislature.</p>

14 (Pages 53 to 56)

<p style="text-align: right;">Page 57</p> <p>1 <b>Q. And have you been asked formally or</b>  2 <b>informally about the RubinBrown study generally or</b>  3 <b>its role in -- in your development of your budget?</b>  4 A. Yes. It's always a part of my  5 proposal, my written remarks, my -- my oral remarks,  6 as well as individual conversations when -- when I'm  7 asked how did you arrive at this number.  8 <b>Q. And has anyone ever challenged</b>  9 <b>explicitly or implicitly the -- the legitimacy of</b>  10 <b>those numbers?</b>  11 A. Yes. Conversations with prosecutors.  12 Again, they will -- I know the comments have been  13 made questioning the report. What the specific  14 concerns are, I don't recall.  15 <b>Q. You said prosecutors have raised</b>  16 <b>concerns?</b>  17 A. Yes, I don't remember which ones, but I  18 remember having conversations.  19 <b>Q. Any legislators raise concerns?</b>  20 A. Perhaps -- not to me directly, but  21 perhaps.  22 <b>Q. Okay. And you said it's your job to</b>  23 <b>prioritize your budget or your -- your line items;</b>  24 <b>is that correct?</b>  25 A. Yeah.</p>	<p style="text-align: right;">Page 59</p> <p>1 <b>advocacy units?</b>  2 A. I believe so, yes.  3 <b>Q. Okay.</b>  4 MS. SHIPMA: And Joel Elmer.  5 MR. WILLIAMSON: And Joel Elmer.  6 <b>Q. (By Mr. Williamson) And -- and does</b>  7 <b>the Public Defender Commission play any role in</b>  8 <b>determining priorities within your -- your budget?</b>  9 A. Well, yeah, we propose the budget to  10 them and they have to approve it, and there will be  11 questions as to, you know, specific things and  12 what's -- what I would -- it's always a question in  13 the legislature of, okay, this is what you say you  14 need, but what would you prioritize?  15 And in -- recently we have prioritized  16 getting out of conflict cases because it's the  17 most -- it's the thing that we can do to provide  18 relief statewide in addition to make us more  19 efficient because we're -- it reduces our travel  20 time.  21 <b>Q. At what point in the course of a given</b>  22 <b>prosecution is the public defender's office</b>  23 <b>typically assigned or appointed to represent an</b>  24 <b>indigent defendant?</b>  25 A. So again, it -- it will vary by</p>
<p style="text-align: right;">Page 58</p> <p>1 <b>Q. How do you go about that -- that</b>  2 <b>process?</b>  3 A. Well, I should say that in addition to  4 generating a number that -- that's based on  5 RubinBrown calculus, there are things that we  6 additionally asked for in our budget. IT is an  7 example.  8 Also, we do not have a -- an appellate  9 office in the southern district. We have the  10 Southern District Court of Appeals, but we do not  11 have a southern district appellate office.  12 Therefore, our attorneys in our central office or  13 our western appellate office have to drive a long  14 way to handle these types of cases.  15 Also, we have asked for juvenile  16 advocacy units, which the system previously had, but  17 had to get rid of in order to handle our rising  18 adult caseload. They preceded me.  19 So we've asked for these types of  20 things in our budget above and beyond what  21 RubinBrown says we need to provide constitutionally  22 competent representation for the number and types of  23 cases that we have.  24 <b>Q. Is it your understanding that Sarah</b>  25 <b>Johnson will be able to talk about the juvenile</b></p>	<p style="text-align: right;">Page 60</p> <p>1 jurisdiction in terms of how or when an individual  2 receives an application for public defender's  3 services. There are times when they are  4 incarcerated pretrial and receive an application in  5 the jail, and then the jail will by arrangement send  6 us the application.  7 There are also times when the defendant  8 is in court and will apply and the defendant may be  9 approved or qualify for defender services there or  10 the application may be taken back for clerical staff  11 or someone else to assess the application for  12 services. So it varies.  13 <b>Q. But in every jurisdiction it is the</b>  14 <b>public defender's office that makes the decision --</b>  15 A. By statute.  16 <b>Q. -- with respect to -- okay. And what</b>  17 <b>is the basis for that decision?</b>  18 A. So it's a little bit complicated.  19 There was both a statute and a rule on this. And  20 the ultimate goal is determine whether they can  21 afford a lawyer for the charges that they are  22 facing, but the calculus for it is -- is a little  23 complex.  24 We use -- we are one of I believe 21  25 states that use as an objective component the</p>

15 (Pages 57 to 60)

Page 61	Page 63
<p>1 federal poverty guidelines, and I believe the 2 threshold is a hundred percent of the federal 3 poverty guidelines, and they would not qualify, I 4 believe, which means that theoretically because food 5 stamps qualifications I believe is 125 percent, you 6 could qualify theoretically for food stamps and not 7 qualify for our services.</p> <p>8 There are additional subjective 9 components. For instance, if the individual bonds 10 out, posts their own bail or bond, and that amount 11 is -- suggests to our office that they have access 12 to resources, for instance if they post a \$10,000 13 bond or a \$5,000 bond, we would inquire as to 14 whether that individual has access to other 15 resources, either physical property that can be 16 liquidated to -- to hire an attorney or cash or 17 liquid assets.</p> <p>18 There are other things that are 19 considered. For instance, whether the person is 20 employed, whether they are -- how many dependents 21 they have, whether they are receiving government 22 assistance.</p> <p>23 I believe if they are both unemployed 24 and receiving governmental assistance, with the 25 exception of disability, I think that's a per se</p>	<p>1 to accept the representation. There are -- there 2 are instances where we don't, but commonplace is we 3 accept the appointment.</p> <p>4 <b>Q. Okay. To what extent formally or</b> 5 <b>informally does your budget limitation factor in to</b> 6 <b>the decision about whether or not someone is</b> 7 <b>determined to be indigent?</b></p> <p>8 A. It shouldn't. It shouldn't. I will 9 use that to point something out, though. When our 10 commission -- when the Public Defender Commission 11 was made aware of a report that we had -- MSPD had 12 one of the -- if not the most strict standard, and 13 by that I mean you could theoretically qualify for 14 indigent representation in the 49 other states but 15 not in Missouri, they endeavored to review what 16 other states did and consider expanding our 17 eligibility for services.</p> <p>18 They decided not to given the fact that 19 we didn't have the resources to handle our existing 20 caseload at the time, but we wanted to make sure 21 that no one would be falling through the cracks. 22 And one of the things that we identified was how 23 bond was used locally to make a determination of 24 indigence. 25 I'm aware that prior to me and a little</p>
Page 62	Page 64
<p>1 quali -- qualified for public defender services. If 2 we make a determination that the person is not 3 indigent, also by statute the person can appeal to 4 the judge who is then in a position to overrule our 5 determination of indigence.</p> <p>6 <b>Q. And if -- if a -- if a defendant</b> 7 <b>appeals that decision is there a hearing that's</b> 8 <b>held?</b></p> <p>9 A. I think the statute requires a hearing. 10 I think in practice it's very different from that.</p> <p>11 <b>Q. And to the extent that a hearing occurs</b> 12 <b>or that there's some sort of proceeding in front of</b> 13 <b>a court, would the public defender's office appear</b> 14 <b>in that proceeding?</b></p> <p>15 A. I will say that it appears that that's 16 the design, but I don't think it happens that -- I 17 think it happens like that very rarely. I think the 18 judge asks the individual a few questions, there's 19 not a lot of investigation that's done by MSPD for 20 the simple reason that it's not a good use of our 21 time in light of our existing caseload.</p> <p>22 And it's our experience that if the 23 individual tells the judge that they can't afford an 24 attorney, then the judge will find indigent and 25 appoint us. So it's just our practice at that point</p>	<p>1 bit into my tenure there was a per se determination 2 that if you made five -- if you posted \$5,000 bond, 3 you did not qualify for public defender services. 4 This had a number of drawbacks as it relates to 5 making sure that people get a lawyer.</p> <p>6 One, some judges would post bond just 7 underneath \$5,000 for the purposes of making sure 8 they qualify. In other jurisdictions, this rule 9 failed to account for instances where a relative 10 would post bond, but they would not -- that same 11 relative would not be willing to hire counsel.</p> <p>12 So it's not a good basis for a 13 determination. And so what we decided was to 14 instruct local offices to use the bond amount as -- 15 as a factor and a reason to make further inquiries 16 as to the person's access to resources.</p> <p>17 <b>Q. Okay. And once it has been determined</b> 18 <b>that a particular person does qualify for public</b> 19 <b>defender services, is there a particular person that</b> 20 <b>is then responsible for determining whether there</b> 21 <b>are any conflicts?</b></p> <p>22 A. I -- I think Joel Elmer would be able 23 to speak to that, and I think who makes that 24 determination may depend on staffing of local 25 office.</p>

16 (Pages 61 to 64)

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

Case 2:17-cv-04057-NKL Document 153-8 Filed 02/09/18 Page 17 of 77

<p style="text-align: right;">Page 65</p> <p>1 <b>Q. And do you have any insight into the</b>  2 <b>process that -- and I imagine it could probably vary</b>  3 <b>from office to office, but the process by which</b>  4 <b>district offices determine which individual public</b>  5 <b>defender will be handling a particular case?</b>  6 A. Yes, it's -- it's by office. Some  7 offices like the Chillicothe office that I refer to  8 earlier, which covers a number of counties, lawyers  9 are sometimes assigned to a county. In other  10 jurisdictions there may be multiple lawyers assigned  11 to the same county, so it will vary depending on the  12 office who gets what case.  13 MR. WILLIAMSON: Can we go off the  14 record for one minute?  15 VIDEOGRAPHER: We're going off the  16 record at approximately 9:37 a.m.  17 (WHEREIN, a recess was taken.)  18 VIDEOGRAPHER: We're back on the record  19 at approximately 9:51 a.m.  20 <b>Q. (By Mr. Williamson) Mr. Barrett, are</b>  21 <b>you familiar with the Missouri Supreme Court case</b>  22 <b>captioned Missouri Public Defender Commission versus</b>  23 <b>Waters?</b>  24 A. Yes.  25 <b>Q. What is your general understanding of</b></p>	<p style="text-align: right;">Page 67</p> <p>1 prior to my joining the department.  2 MS. SHIPMA: And again, Greg  3 Mermelstein and Joel Elmer both lived through that  4 time with MSPD, so they can speak in more detail  5 about the specifics.  6 MR. WILLIAMSON: Okay. That's helpful.  7 MR. QUINLAN: I -- there's a word that  8 I missed. You said you never utilized the statute.  9 THE WITNESS: Not during my tenure.  10 MR. QUINLAN: I'm trying to remember  11 what the word was you used. Do you remember?  12 THE WITNESS: Administer.  13 MR. QUINLAN: Administer. Okay. And I  14 apologize.  15 <b>Q. (By Mr. Williamson) Is it your</b>  16 <b>understanding that your predecessor, Catherine</b>  17 <b>Kelly?</b>  18 A. Yes.  19 <b>Q. Was told that if offices continue -- or</b>  20 <b>started to turn down cases that the legislature</b>  21 <b>would attempt to privatize the public defender</b>  22 <b>system?</b>  23 A. Secondhand coming -- information came  24 to me that a -- that during a time when the office,  25 or at least the Boone County office, utilized the</p>
<p style="text-align: right;">Page 66</p> <p>1 <b>the -- of that case?</b>  2 A. I get that case and the Pratt case  3 confused. One relates to the promulgation of a  4 rural -- this all preceded me, my time at MSPD, but  5 the promulgation of a rule involving when an office  6 can essentially refuse to accept new cases if that's  7 correct.  8 <b>Q. And even though the Waters case</b>  9 <b>preceded you, do you have an understanding of what</b>  10 <b>the -- the practical impact of that decision was on</b>  11 <b>-- on your office?</b>  12 A. Well, my understanding is the  13 promulgation of that rule would provide a mechanism  14 that would allow a local office to essentially not  15 accept or not be available to receive additional  16 cases because a determination had been made that  17 that office has too many cases.  18 <b>Q. And are you aware of any steps taken by</b>  19 <b>the Missouri legislature to -- to codify the</b>  20 <b>decision in Waters?</b>  21 A. I don't know if it was to codify. I  22 would frame it as to nullify the -- the rule that  23 was promulgated by enacting a statute that it would  24 appear to me to be -- although I never administered  25 it, more onerous than what was promulgated by MSPD</p>	<p style="text-align: right;">Page 68</p> <p>1 rule that was promulgated and affirmed by the  2 Supreme Court a judge by the name of Oxenhandler  3 began appointing.  4 This stirred up some political backlash  5 in Jefferson City. I was told that a representative  6 from the House of Representatives, I believe it was  7 Kelly who represented at the time Boone County or an  8 area within Boone County, I believe, visited Cat  9 Kelly.  10 I don't know the specifics of their  11 conversation, but it was told to me that during this  12 conversation the communication was stand down, stop  13 refusing cases, or the legislature will proceed with  14 plans to privatize. I don't know what happened  15 after that, other than the legislature didn't pass  16 the privatization bill, but --  17 <b>Q. Did you ever have a conversation with</b>  18 <b>Ms. Kelly specifically about this?</b>  19 A. No. Not regarding details. And not  20 even as to her being visited by representative Kelly  21 on this point, just that in more general terms the  22 decision to reverse course and not refuse cases was  23 tied to concern about privatizing the system.  24 <b>Q. Did you ever receive a similar warning</b>  25 <b>from anyone?</b></p>

17 (Pages 65 to 68)

Page 69	Page 71
<p>1 A. Yeah, recently as yesterday. I was on 2 a conference call with several judges and a 3 prosecutor and the district defender of my Kennett 4 office. The judge -- the presiding judge -- 5 (Court reporter interruption.) 6 A. Kennett office, K-E-N-N-E-T-T. Leslie 7 Hazel is the district defender's name. She was 8 following the direction of lawyers in her office 9 that they were not available and she communicated 10 that to the court. 11 She received I think some hostile 12 treatment locally and I asked to be included on the 13 conversations. The call was had yesterday at 14 three o'clock which Judge Mayer, M-A-Y-E-R, I 15 believe, who I think is the presiding judge. 16 Judge Satterfield, who I believe is an 17 associate judge. As well as a prosecutor, elected 18 prosecutor named Russ Oliver. I believe he 19 represents Stoddard County. 20 They -- we talked through what 21 directives I'd given or not given with respect to 22 Ms. Hazel's decision, the events that led to it, 23 what my position was on the law. 24 During the course -- I think it was at 25 the end of the conversation Russ Oliver made</p>	<p>1 <b>staff or whoever was interviewing you about that</b> 2 <b>problem?</b> 3 A. Yeah, the lay of the land at the time 4 within the system, which was my impression of the 5 system, was that turning away cases, whether based 6 on ethical obligations or otherwise, would result in 7 privatization, and that made it all the more dire to 8 try to get as many additional resources as possible. 9 <b>Q. So is it fair to say that you didn't</b> 10 <b>believe at the time that you took the job that</b> 11 <b>refusing cases was a viable alternative?</b> 12 A. I remember from day one to now being 13 extremely conflicted because the proverbial rock and 14 a hard place with what I know to be our ethical 15 obligations, including my ethical obligations as a 16 manager in the legal setting to what, you know, 17 provided -- making sure -- doing what I needed to do 18 to make sure that everyone received competent 19 representation pursuant to the Sixth Amendment. 20 The -- I remember having some 21 understanding of the privatization proposal, and it 22 was my determination that it would -- it would -- it 23 would not be an improvement on the current situation 24 in terms of providing the right to counsel to the 25 indigent accused.</p>
Page 70	Page 72
<p>1 comments related to privatization and good luck this 2 legislative session. 3 And previous to that call it was 4 related to me by a number of employees that Russ 5 Oliver -- and I have no direct knowledge as to 6 whether he did or did not -- was communicating with 7 the Speaker of the House about reviving the 8 privatization bill and was -- and having back 9 channel communications with prosecutors on that 10 subject. I cannot testify about whether that's 11 accurate, just that it was related to me. 12 <b>Q. We'll come back to -- to that shortly.</b> 13 <b>Did the prospect of case refusal come up during the</b> 14 <b>process of your -- your application for this job?</b> 15 A. No, I don't think it -- during my 16 interview? 17 <b>Q. Right.</b> 18 A. I don't think it came up. I don't 19 recall it. 20 <b>Q. Was it your understanding as you went</b> 21 <b>through that interview process that the public</b> 22 <b>defender's office was in the midst of a budget</b> 23 <b>crisis at that time?</b> 24 A. Yes. 25 <b>Q. And did you talk with members of the</b></p>	<p>1 For that reason I endeavored to improve 2 the -- the system incrementally through making -- 3 trying to secure more funding and then reporting 4 back to the legislature on how I spent that funding 5 and making a case for the benefit to the state of 6 Missouri. 7 <b>Q. And can you talk a little bit about</b> 8 <b>what -- can you talk a little bit about your</b> 9 <b>understanding of -- of what that privatization</b> 10 <b>proposal entailed?</b> 11 A. I don't really recall. I think it was 12 a hybrid where MSPD would continue to take certain 13 cases, but other cases would be privatized. 14 <b>Q. In other words, assigned to private</b> 15 <b>counsel?</b> 16 A. Yeah. By -- by means that I'm not 17 familiar with, whether it was -- I don't know 18 whether MSPD would contract out those cases, whether 19 it would be done through the court system or office 20 administration. I think -- I don't even know 21 whether that was determined. 22 MS. SHIPMA: Once again, Joel or Greg 23 would have probably more details on that having been 24 part of those discussions. 25 <b>Q. (By Mr. Williamson) So I want to talk</b></p>

18 (Pages 69 to 72)



Page 73	Page 75
<p>1 a little bit about the public defender's office, the  2 current case refusal policy. What are the criteria,  3 if there are a specific set of criteria, that would  4 justify a public defender in Missouri refusing to --  5 to take a particular case?</p> <p>6 MS. SHIPMA: Jason, I'm going to  7 object. Just the way you phrased the question,  8 assuming -- assume that there is a case refusal  9 policy.</p> <p>10 MR. WILLIAMSON: Okay.  11 MS. SHIPMA: So --  12 MR. WILLIAMSON: Let me back up.</p> <p>13 <b>Q. (By Mr. Williamson) Does your office</b>  14 <b>maintain a formal case refusal policy?</b></p> <p>15 A. No.</p> <p>16 <b>Q. Do you know whether the district</b>  17 <b>offices maintain their own case refusal policy?</b></p> <p>18 A. I do not believe they do.</p> <p>19 <b>Q. So separate from any formal or informal</b>  20 <b>policy, what in your mind would justify a public</b>  21 <b>defender choosing to refuse a case appointment?</b></p> <p>22 A. That there's a conflict. Conflict can  23 be achieved I think in two ways. One, whether the  24 -- representing the case to be received in any way  25 conflicts with an obligation to an existing or</p>	<p>1 Code 49. That's the one type of conflict.  2 The second type, when -- that pertains  3 more to caseload, I believe that it's the lawyer's  4 obligation to refuse to accept that case. I will  5 say that in the aftermath of the -- the refusing to  6 accept cases that turn into a threat of  7 privatization, I'm not aware of any lawyer asserting  8 that, that type of conflict until recently I should  9 say.</p> <p>10 <b>Q. Which I'll ask you about shortly. Are</b>  11 <b>there -- you may have answered this, but are there</b>  12 <b>circumstances in your mind under which a public</b>  13 <b>defender in Missouri is required to refuse an</b>  14 <b>appointment?</b></p> <p>15 A. Yes, pursuant to the rules of  16 professional conduct.</p> <p>17 <b>Q. But not necessarily pursuant to any</b>  18 <b>policy or directive of the office?</b></p> <p>19 A. None that I created or are aware of.</p> <p>20 <b>Q. Okay. Are you aware of any instances</b>  21 <b>either before or during your tenure where public</b>  22 <b>defenders refuse appointment as conflict counsel in</b>  23 <b>other counties?</b></p> <p>24 A. Can you say that again?  25 <b>Q. You talked earlier about the -- how</b></p>
Page 74	Page 76
<p>1 previous client.  2 There's also a conflict when if a  3 lawyer accepts an additional case and fulfilling the  4 obligation to that new defendant in any way takes  5 away or it deprives the lawyer of competently  6 representing their existing clients because foremost  7 an attorney has an obligation to their existing  8 clients.</p> <p>9 <b>Q. And what documentation, if any, would</b>  10 <b>that public defender have to provide, excuse me, in</b>  11 <b>order to demonstrate that such a conflict exists?</b></p> <p>12 A. Other than the rules of professional  13 conduct, nothing that I'm aware of was generated by  14 MSPD.</p> <p>15 <b>Q. And how does this generally work in a</b>  16 <b>-- in a particular district. If a -- if an</b>  17 <b>assistant public defender determines that there's a</b>  18 <b>conflict and they feel the need to turn down a case,</b>  19 <b>what happens then?</b></p> <p>20 A. Well, taking the first type of  21 conflicts, when taking -- representing a particular  22 defendant would conflict with the duty to an  23 existing or previous client, they would send it to  24 either another office to represent that individual  25 or to Joel Elmer to contract out pursuant to our</p>	<p>1 <b>conflict cases are handled in your office and that</b>  2 <b>one district office will be responsible for handling</b>  3 <b>conflict cases --</b></p> <p>4 A. Yes.</p> <p>5 <b>Q. -- in other counties. Are you aware of</b>  6 <b>instances where public defenders from that district</b>  7 <b>because of caseload issues have refused to take</b>  8 <b>those conflict cases?</b></p> <p>9 A. As it relates to the counties that they  10 have been assigned as an office to represent --</p> <p>11 <b>Q. Correct.</b></p> <p>12 A. -- no, I'm not familiar with that.</p> <p>13 <b>Q. Do you have a sense of how such a</b>  14 <b>situation would be handled, which is to say who</b>  15 <b>would be next on the list if that -- if a public</b>  16 <b>defender refused to take a conflict case, how would</b>  17 <b>the court handle it?</b></p> <p>18 A. I think Joel Elmer is in the best  19 position because it gets into second- and  20 third-level conflicts, and Joel Elmer is an expert  21 on that issue.</p> <p>22 (WHEREIN, Exhibit 2, 9-11-17 Barrett  23 letter to MSPD attorneys, was marked for  24 identification.)  25 <b>Q. (By Mr. Williamson) Handing you a</b></p>

19 (Pages 73 to 76)

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

Case 2:17-cv-04057-NKL Document 153-8 Filed 02/09/18 Page 20 of 77



Page 77	Page 79
<p>1 <b>document marked Exhibit 2 for identification. Do</b>  2 <b>you recognize that document?</b>  3 A. Yes.  4 <b>Q. And can you describe what it is?</b>  5 A. It's a letter that I crafted to be  6 distributed to attorneys throughout the system  7 following oral argument in a disciplinary case  8 before the Missouri Supreme Court related to a MSPD  9 attorney by the name of Karl Hinkebein who practices  10 in our central PCR office or post conviction relief  11 office.  12 <b>Q. So I'm going to ask you about that</b>  13 <b>disciplinary proceeding in a moment, but can you</b>  14 <b>just talk about what motivated you to write this</b>  15 <b>letter?</b>  16 A. Sure. During oral argument in the case  17 there -- the Supreme Court made comments related to  18 what the expectations that -- on a lawyer who is in  19 a position where they cannot take too many cases,  20 and suggested that the lawyer, paraphrasing here,  21 has two options.  22 To essentially tell their manager,  23 assuming their manager is the one assigning the  24 cases, that they are not available, or to resign,  25 leave -- leave that employment. There were</p>	<p>1 A. I spoke to several offices in the  2 aftermath of this letter to answer questions,  3 provide further guidance, reiterate what I said in  4 the letter in terms of whether someone picked -- I  5 don't remember anyone picking up the phone and  6 calling, but we had a defender management training  7 that district defenders and deputy district  8 defenders attend that was already calendared for the  9 following week or two weeks later, and we provide  10 further guidance as to obligations under the rules  11 for each office, but one of the other communications  12 was that -- that I'm not issuing any directives  13 related to turning away cases, but that they follow  14 the rules of professional conduct.  15 <b>Q. And that message was relayed at this</b>  16 <b>subsequent meeting that you mention?</b>  17 A. I think to include this letter, but  18 yes, at that meeting, yes.  19 <b>Q. Do you recall the date of that meeting</b>  20 <b>by chance?</b>  21 A. The defender management meeting?  22 <b>Q. Right.</b>  23 A. It was last week over the course of  24 three days. Last Tuesday through Thursday. I don't  25 know the dates.</p>
Page 78	Page 80
<p>1 resignations by a few members -- a few lawyers  2 around that time.  3 My concern was -- because I know that  4 many, if not most, public defenders were listening  5 or did listen to the oral argument, that there would  6 be a concern that the employer would -- would insist  7 that they take all the cases that came to them as a  8 condition of employment, and that they could be --  9 I'm speculating.  10 Their concern might be that they would  11 be expected to take the cases regardless of the  12 condition of their employment. And on the other  13 hand, if they did, that OCDC, the Office of Chief  14 Disciplinary Counsel, would nonetheless hold them  15 accountable for their practice under the rules.  16 I wanted to provide whatever relief I  17 could that -- that I would not impose as a condition  18 of their employment the acceptance of cases beyond  19 which in their individual determination they felt  20 they couldn't handle or would put them in jeopardy  21 of violating the rules of professional conduct, and  22 that if I did, that it would be their obligation to  23 file a bar complaint against me.  24 <b>Q. Did you receive any responses to this</b>  25 <b>letter specifically?</b></p>	<p>1 <b>Q. And you said that there had been some</b>  2 <b>resignations prior to you writing this letter to the</b>  3 <b>staff?</b>  4 A. Yes. Citing -- resignations that cited  5 caseload and their -- their inability to practice  6 within the -- the rules.  7 <b>Q. And do you have a sense of how many</b>  8 <b>resignations have occurred since you wrote this</b>  9 <b>letter?</b>  10 A. I know one manager has communicated to  11 me that she will be leaving the system I believe in  12 November. That's the head of the Union trial  13 office.  14 <b>Q. And is that the only other that you're</b>  15 <b>aware of?</b>  16 A. That I'm aware of.  17 <b>Q. How was this letter communicated to</b>  18 <b>your staff by the way?</b>  19 A. I believe by e-mail.  20 <b>Q. By e-mail.</b>  21 <b>(WHEREIN, Exhibit 3, Judge Crane e-mail</b>  22 <b>response, was marked for identification.)</b>  23 <b>Q. (By Mr. Williamson) Going to hand you</b>  24 <b>another document marked Exhibit 3 for</b>  25 <b>identification. Do you recognize that document?</b></p>

20 (Pages 77 to 80)

Page 81	Page 83
<p>1 A. Yes, I do.</p> <p>2 <b>Q. Can you describe what it is?</b></p> <p>3 A. Yes. It appears to be a communication</p> <p>4 between district defender of the Columbia trial</p> <p>5 office David Wallis and his deputy Sarah Aplin to</p> <p>6 judges in that circuit or Boone County regarding the</p> <p>7 unavailability of their lawyers to take additional</p> <p>8 cases.</p> <p>9 <b>Q. And this is an e-mail communication?</b></p> <p>10 A. Yes.</p> <p>11 <b>Q. Can you tell me the date of that, of</b></p> <p>12 <b>this communication?</b></p> <p>13 A. September 27th, 2017.</p> <p>14 <b>Q. Do you also see the response from</b></p> <p>15 <b>presiding Judge Crane in this document?</b></p> <p>16 A. Yes. And I think the date that I just</p> <p>17 gave you September 27th, 2017, that appears to be</p> <p>18 tied to the response from Judge Crane. There</p> <p>19 doesn't seem to be a date tied to the underlying</p> <p>20 e-mail from Mr. Wallis.</p> <p>21 <b>Q. Can you take a look at the -- the first</b></p> <p>22 <b>sentence of the judge's response?</b></p> <p>23 A. Yes. Due to the correspondence</p> <p>24 received yesterday, September 26. That would</p> <p>25 indicate that the -- that Mr. Wallis communicated</p>	<p>1 be the day prior. I may have received it earlier,</p> <p>2 but I -- that's when I remember reviewing it.</p> <p>3 <b>Q. And was this decision by Mr. Wallis</b></p> <p>4 <b>consistent with the guidance that you provided in</b></p> <p>5 <b>your September 11 letter?</b></p> <p>6 A. I believe it was.</p> <p>7 <b>Q. To your knowledge, what is the current</b></p> <p>8 <b>status of representation in Boone County by the</b></p> <p>9 <b>public defender's office?</b></p> <p>10 A. That -- I can't speak to -- I know that</p> <p>11 we had a meeting with Judge Crane at the end of that</p> <p>12 week on Friday. Judge Crane made a request to</p> <p>13 Mr. Wallis that if he could somehow prioritize the</p> <p>14 in-custody cases, that Judge Crane would appoint</p> <p>15 lawyers private -- from the private bar on the</p> <p>16 out-of-custody cases.</p> <p>17 With me present Mr. Wallis said that --</p> <p>18 that that's going to entirely depend on whether</p> <p>19 lawyers in his office were available, and the last</p> <p>20 communication he had with the lawyers in his office</p> <p>21 that they were unavailable, but that he would go</p> <p>22 back and sit down with them and discuss their</p> <p>23 caseloads individually.</p> <p>24 As I sit here today, my understanding</p> <p>25 is that the lawyers in the Boone County office are</p>
Page 82	Page 84
<p>1 or -- or that Judge Crane received the e-mail from</p> <p>2 Mr. Wallis on the day prior, September 26th.</p> <p>3 <b>Q. Do you know whether that communication</b></p> <p>4 <b>was sent before or after the district defender</b></p> <p>5 <b>management meeting that you mentioned?</b></p> <p>6 A. It's my understanding that it occurred</p> <p>7 before.</p> <p>8 <b>Q. Okay. What is your understanding of</b></p> <p>9 <b>the import of -- of this e-mail from Mr. Wallis to</b></p> <p>10 <b>the court?</b></p> <p>11 A. I recognize the e-mail. I haven't read</p> <p>12 it from beginning to end in more than a week, but my</p> <p>13 understanding of the import is that the attorneys in</p> <p>14 Mr. Wallis's office had communicated either to him</p> <p>15 or to Ms. Aplin or both that given their caseloads,</p> <p>16 types of cases, severity of those cases, complexity</p> <p>17 of those cases, that they were unable to handle</p> <p>18 additional assignments.</p> <p>19 <b>Q. And were you made aware beforehand of</b></p> <p>20 <b>Mr. Wallis's intention to send this e-mail to --</b></p> <p>21 A. No.</p> <p>22 <b>Q. -- the court? When did you find out</b></p> <p>23 <b>about it?</b></p> <p>24 A. I don't know when I received it, but I</p> <p>25 remember being aware of it on the Monday which would</p>	<p>1 not available and that the -- Judge Crane has been</p> <p>2 assigning cases to the members of the private bar of</p> <p>3 Boone County.</p> <p>4 MR. QUINLAN: Just if you don't mind,</p> <p>5 you said in custody and not in custody.</p> <p>6 THE WITNESS: Yes. When I say --</p> <p>7 MR. QUINLAN: That means they're in</p> <p>8 pretrial detention?</p> <p>9 THE WITNESS: They're in local jail,</p> <p>10 yes.</p> <p>11 MR. QUINLAN: Okay.</p> <p>12 <b>Q. (By Mr. Williamson) Do you have any</b></p> <p>13 <b>idea how many private attorneys are available to</b></p> <p>14 <b>take cases in Boone County?</b></p> <p>15 A. I am not.</p> <p>16 <b>Q. Do you have any idea how many have been</b></p> <p>17 <b>appointed to this point?</b></p> <p>18 A. I am not.</p> <p>19 <b>Q. Do you know how many -- approximately</b></p> <p>20 <b>how many additional attorneys would be required in</b></p> <p>21 <b>order for area 13 to -- to be able to provide</b></p> <p>22 <b>competent representation to all defendants in -- in</b></p> <p>23 <b>that district?</b></p> <p>24 A. I do not.</p> <p>25 <b>Q. Have you discussed with Mr. Wallis or</b></p>

21 (Pages 81 to 84)

Page 85	Page 87
<p>1 <b>anyone else in Boone County of the possibility of</b>  2 <b>placing indigent defendants on waiting lists until</b>  3 <b>attorneys in that office become available?</b>  4 A. Yes. Both at the defender management  5 training where we try -- one of the things we did  6 was try to discuss practically and procedurally how  7 we were going to deal with clients who would  8 otherwise come to us.  9 We discussed with Judge Crane how we  10 would handle it and that we would receive  11 applications and essentially have a waiting list  12 that we would communicate with the court.  13 <b>Q. And has that -- has that happened?</b>  14 A. I don't know.  15 <b>Q. Since this decision was made by</b>  16 <b>Mr. Wallis and the attorneys at his office, are you</b>  17 <b>aware of other district offices that either have</b>  18 <b>already or that intend to begin refusing case</b>  19 <b>appointments?</b>  20 A. I alluded to earlier conversation or  21 phone conference I had yesterday involving the --  22 our Kennett trial office. It's my understanding  23 that the Kennett trial office has communicated to  24 the local judges their unavailability. I know the  25 head of our St. Louis city trial office district</p>	<p>1 A. It has varied. As we discussed -- as I  2 mentioned, Judge Crane has expressed that he either  3 has begun or is going to appoint lawyers. I'm aware  4 of at least one case where a private lawyer was  5 appointed.  6 In other jurisdictions, to include  7 Kennett, they were making arguments that we needed  8 to do -- or the public defender system -- or at  9 least the Kennett office needed to do additional  10 steps before in their minds this was a legal thing.  11 The reports that I received from other  12 district defenders were that judges were accepting  13 that there was unavailability, but didn't say  14 whether they were going to appoint private  15 attorneys. So it's -- the response has been varied.  16 <b>Q. And in Boone County is it your</b>  17 <b>understanding that the private attorneys that are</b>  18 <b>being appointed are not being compensated for that</b>  19 <b>representation?</b>  20 A. That is my understanding.  21 <b>Q. Are you aware of any counties, either</b>  22 <b>among the ones that you mentioned or others, where</b>  23 <b>private attorneys are being compensated for taking</b>  24 <b>these cases?</b>  25 A. I'm not aware.</p>
Page 86	Page 88
<p>1 defender Mary Fox has communicated to at least one  2 judge --  3 MR. QUINLAN: That's city or county?  4 A. City. I'm not sure whether she has  5 communicated that they are unavailable, but they had  6 discussion with respect to the process in the event  7 they're unavailable.  8 I know I received calls yesterday from  9 district defender Steven Lynxwiler who covers the  10 Poplar Bluff office, and there -- I believe at least  11 one attorney was unavailable to handle cases, and I  12 believe the counties were Butler and Ripley.  13 I also received a call yesterday from a  14 deputy district defender in our Jackson office. She  15 was asking for direction on a -- for an attorney who  16 said they were no longer available to take new  17 cases, but a client they had already had had picked  18 up additional charges and wanted direction on that.  19 So I'm aware of at least one lawyer in  20 that office. Whether they handle a specific county,  21 I don't know who's unavailable. So there are a  22 number of other counties where this is happening.  23 <b>Q. And do you have a sense at this point</b>  24 <b>of how things have played out in each of those</b>  25 <b>counties?</b></p>	<p>1 <b>Q. Have you had any other interactions</b>  2 <b>with judges in these other counties similar to the</b>  3 <b>interactions that you've had with the -- the -- the</b>  4 <b>court in Kennett county and --</b>  5 A. No. I haven't. I've -- some local  6 management has expressed to me that judges are in  7 their words not happy, and I -- I said that to give  8 the judge my cell phone number, which I -- one of  9 the things that I reference in this letter is  10 presenting to the presiding judges at the judicial  11 conference, which was part of the Missouri Bar's  12 annual meeting.  13 I also handed out -- I discussed the  14 Hinkebein matter and the effect it was having on the  15 system, and I provided judges with my cell phone  16 number at that point as well.  17 <b>Q. Have you gotten any phone calls from</b>  18 <b>judges?</b>  19 A. No.  20 <b>Q. And -- and one other question about the</b>  21 <b>private attorneys. Do you as the director of this</b>  22 <b>office see appointment of private counsel as a</b>  23 <b>viable alternative here?</b>  24 A. No.  25 <b>Q. Can you say a little bit about why?</b></p>

22 (Pages 85 to 88)

<p style="text-align: right;">Page 89</p> <p>1 A. I am not aware of whether Judge Crane 2 or any other judge who is contemplating appointing 3 private counsel, whether they are going to appoint 4 someone who is competent to provide representation 5 in the area of criminal defense.</p> <p>6 <b>Q. So these private attorneys are not</b> 7 <b>necessarily criminal defense attorneys?</b></p> <p>8 A. The one appointment that I was aware 9 of, one individual in Boone County, worked for a 10 private business I believe as a regulatory attorney, 11 and had no experience in criminal defense matters.</p> <p>12 <b>Q. And as far as you know, there is no</b> 13 <b>screening mechanism to determine which private</b> 14 <b>attorneys might be qualified to take these cases and</b> 15 <b>which are not?</b></p> <p>16 A. I'm not aware of any.</p> <p>17 (WHEREIN, Exhibit 4, Cumulative 18 caseload metrics spreadsheet, was marked for 19 identification.)</p> <p>20 <b>Q. (By Mr. Williamson) Handing you a</b> 21 <b>document marked Exhibit 4, for identification. Do</b> 22 <b>you recognize this document?</b></p> <p>23 A. I recognize what this document 24 represents.</p> <p>25 <b>Q. What is the heading at the top of the</b></p>	<p style="text-align: right;">Page 91</p> <p>1 <b>ordering of counties by the county that's got -- or</b> 2 <b>the area that's got the highest caseload or the</b> 3 <b>highest percentage of -- strike that.</b></p> <p>4 <b>This -- it is an ordering of counties</b> 5 <b>that have the highest percentage -- or that are the</b> 6 <b>furthest beyond their capacity from the highest to</b> 7 <b>lowest, and the county that is at the top of the</b> 8 <b>list is Kennett county, which we talked about a few</b> 9 <b>minutes ago?</b></p> <p>10 A. Yes. I would describe this as a 11 ranking of -- as the most overloaded --</p> <p>12 <b>Q. Most overloaded?</b></p> <p>13 A. -- offices using thresholds, workload 14 thresholds established by RubinBrown and made part 15 of the Missouri Project Report.</p> <p>16 <b>Q. Okay. So just so that I understand</b> 17 <b>what each column represents, the column that is</b> 18 <b>labeled cases initiated --</b> 19 <b>(Court reporter interruption.)</b></p> <p>20 <b>Q. (By Mr. Williamson) Cases initiated --</b> 21 MS. SHIPMA: And Jason, can I just -- 22 you are probably going to get better, more thorough 23 answers from Joel --</p> <p>24 MR. WILLIAMSON: Okay.</p> <p>25 MS. SHIPMA: -- on this. That's not to</p>
<p style="text-align: right;">Page 90</p> <p>1 <b>document?</b></p> <p>2 A. Missouri State Public Defender 3 Cumulative Caseload Metrics for the period beginning 4 January 1, 2017 through March 31st, 2017.</p> <p>5 <b>Q. Do you know who created this document?</b></p> <p>6 A. I do not. When I request this 7 document, I request it from our IT department.</p> <p>8 <b>Q. And how often do you request these</b> 9 <b>sorts of reports?</b></p> <p>10 A. It's -- when -- I request it prior to 11 any time I'm visiting or talking to a local office 12 when I want to be educated on the most up-to-date 13 metrics concerning that office, this is one of the 14 documents that I request.</p> <p>15 <b>Q. And do you normally use this document</b> 16 <b>then just for internal purposes?</b></p> <p>17 A. We've shared this document both outside 18 of Woodrail with the local offices, and I'm not shy 19 about sharing it with outside persons or entities to 20 include legislature or others.</p> <p>21 <b>Q. So I just want to -- we don't need to</b> 22 <b>go through the numbers necessarily, but I want to</b> 23 <b>just make sure I understand exactly what we're</b> 24 <b>looking at here. So first of all, is it -- is it</b> 25 <b>fair to say that this is a ranking of -- or an</b></p>	<p style="text-align: right;">Page 92</p> <p>1 say that Michael doesn't know what it means --</p> <p>2 MR. WILLIAMSON: Right.</p> <p>3 MS. SHIPMA: -- but if you want to get 4 into the, you know, nuts and bolts of where that 5 number comes from, what that number is drawn from, 6 what it means, Joel will be the person to best tell 7 you that.</p> <p>8 MR. WILLIAMSON: Got it. Okay.</p> <p>9 <b>Q. (By Mr. Williamson) Have you shared</b> 10 <b>these reports with the legislature? I know you said</b> 11 <b>you shared --</b></p> <p>12 A. I'm sure I have. I provide packets and 13 materials and charts and supporting documentation. 14 I certainly don't consider this privileged in any 15 way, and I readily share it with whomever I come in 16 contact with when discussing caseloads.</p> <p>17 <b>Q. And is it fair to say that this --</b> 18 <b>this -- these rankings are not static?</b></p> <p>19 A. Right.</p> <p>20 <b>Q. And that a county or an area office</b> 21 <b>that in this report is listed as say one of the top</b> 22 <b>ten most overloaded could over the next several</b> 23 <b>months drop down on this list and be replaced by</b> 24 <b>area offices that are currently within the bottom</b> 25 <b>ten let's say?</b></p>

23 (Pages 89 to 92)

<p style="text-align: right;">Page 93</p> <p>1 A. I don't know if it's that volatile.  2 Certainly an office can move a few spots if the --  3 volatility would come if -- if someone leaves a  4 position in a given office and I decide to relocate  5 that position to another office you'll have the  6 volatility.  7 <b>Q. And without getting into the details,</b>  8 <b>is it fair to say that according to this document,</b>  9 <b>during the first three months of 2017 none of the</b>  10 <b>area offices were operating within their capacity?</b>  11 A. Because none of the offices are within  12 a hundred percent capacity, that is true.  13 <b>Q. Okay. And tell me if this is a</b>  14 <b>question for -- for Joel, and if so we can -- we can</b>  15 <b>wait and share it with him. If you look at those --</b>  16 <b>those top ten counties or area offices on this list,</b>  17 <b>are you able to go down this list and tell me which</b>  18 <b>counties you would consider to be more urban areas</b>  19 <b>versus those counties that you would characterize as</b>  20 <b>more rural or less populated?</b>  21 A. It's a subjective term, but I can --  22 yes.  23 <b>Q. Fair enough.</b>  24 A. I can do that.  25 <b>Q. That sounds fair. So the Kennett</b></p>	<p style="text-align: right;">Page 95</p> <p>1 <b>to any particular type of office within the system?</b>  2 A. That's right.  3 <b>Q. It's a statewide problem?</b>  4 A. That's right.  5 <b>Q. And if we look on this -- this same</b>  6 <b>document, Exhibit 4, can you find Boone County? So</b>  7 <b>I guess it would be the Columbia office.</b>  8 A. Yes.  9 <b>Q. And where is that located on this list</b>  10 <b>if you can.</b>  11 MR. QUINLAN: 23. Item 23.  12 A. According to the caseload metrics  13 report for the period January 1 to March 31st, 2017,  14 it appears that the Columbia trial office ranks 19th  15 in the system -- in the MSPD in terms of caseload or  16 percent of capacity.  17 <b>Q. (By Mr. Williamson) And do you have</b>  18 <b>any idea where that office falls currently?</b>  19 A. As I sit here today, no.  20 <b>Q. I think you may have answered this</b>  21 <b>already, but have you encouraged any district</b>  22 <b>offices to begin refusing cases beyond the</b>  23 <b>September 11 letter?</b>  24 A. At defender management training we  25 stressed -- I stressed, others stressed that</p>
<p style="text-align: right;">Page 94</p> <p>1 <b>office?</b>  2 A. I would describe the Kennett office as  3 a rural office.  4 <b>Q. St. Charles?</b>  5 A. I would describe the St. Charles office  6 as a suburban office.  7 <b>Q. Sedalia?</b>  8 A. I would describe the Sedalia office as  9 a rural office.  10 <b>Q. Harrisonville?</b>  11 A. I would describe it as a more rural  12 office.  13 <b>Q. Jackson?</b>  14 A. I would describe it as a urban office.  15 <b>Q. Ava?</b>  16 A. Rural office.  17 <b>Q. Union?</b>  18 A. More rural office.  19 <b>Q. Monett?</b>  20 A. A rural office.  21 <b>Q. And Springfield?</b>  22 A. I would describe that as more of an  23 urban office.  24 <b>Q. Is it fair to say that the caseload</b>  25 <b>problems that are facing your office are not limited</b></p>	<p style="text-align: right;">Page 96</p> <p>1 everyone has a present obligation under the rules of  2 professional conduct.  3 To the extent that there's two  4 mechanisms, at least two mechanisms to bring  5 yourself within competent -- or ethical  6 representation, a move to withdraw and in addition  7 to declining to accept new cases, that if someone  8 had -- were presently overloaded and were not in  9 comport with the rules, that they would have an  10 obligation to move to withdraw in existing cases.  11 <b>Q. And do you -- as it stands right now,</b>  12 <b>do -- how many additional lawyers statewide do you</b>  13 <b>believe would be needed in order for the trial</b>  14 <b>division offices to be able to operate within their</b>  15 <b>capacity?</b>  16 A. A precise number I do not know, but I  17 know that given the number of cases and the type of  18 cases for the last fiscal year, it was north of --  19 it was in excess of 300 additional lawyers.  20 According to RubinBrown metrics.  21 MS. SHIPMA: Can I -- was that  22 additional trial division lawyers or additional  23 lawyers systemwide?  24 THE WITNESS: I think it was additional  25 lawyers systemwide, but that's a good point. I'm</p>

24 (Pages 93 to 96)



<p style="text-align: right;">Page 97</p> <p>1 not a hundred percent sure on that.</p> <p>2 MS. SHIPMA: Because the question was</p> <p>3 about trial division. That's why I wanted to make</p> <p>4 sure.</p> <p>5 THE WITNESS: Thank you.</p> <p>6 MS. SHIPMA: Uh-huh.</p> <p>7 MR. QUINLAN: You don't have a number</p> <p>8 for trial lawyers?</p> <p>9 THE WITNESS: Not off the top of my</p> <p>10 head.</p> <p>11 <b>Q. (By Mr. Williamson) And by the way,</b></p> <p>12 <b>I'm going to -- and we can ask Joel about this, but</b></p> <p>13 <b>do you know whether these -- I see cases initiated</b></p> <p>14 <b>here and then new net cases. Do you know whether</b></p> <p>15 <b>this includes conflict cases?</b></p> <p>16 MS. SHIPMA: That's a Joel question.</p> <p>17 A. That's a Joel question.</p> <p>18 <b>Q. (By Mr. Williamson) Okay. Is there</b></p> <p>19 <b>anything else that you'd like to share with regard</b></p> <p>20 <b>to what you expect going forward with respect to</b></p> <p>21 <b>case refusal or generally how your office intends to</b></p> <p>22 <b>handle the caseload situation?</b></p> <p>23 A. Well, it's -- my experience over the</p> <p>24 last week has been that it's fluid. As these issues</p> <p>25 arise in the local offices, I have been interfacing</p>	<p style="text-align: right;">Page 99</p> <p>1 process and prior to their liberty being taken from</p> <p>2 them.</p> <p>3 MR. WILLIAMSON: Just give me one</p> <p>4 minute.</p> <p>5 (WHEREIN, Exhibit 5, Boone County Bar</p> <p>6 Association October 2017 Newsletter, was marked for</p> <p>7 identification.)</p> <p>8 <b>Q. (By Mr. Williamson) I'm just going to</b></p> <p>9 <b>show you one last document. It will be marked as</b></p> <p>10 <b>Exhibit 5. Do you recognize this document?</b></p> <p>11 A. I don't. I know it to be the Boone</p> <p>12 County Bar Association's newsletter. I've received</p> <p>13 this before, but I did not receive -- I did not read</p> <p>14 this -- this number or this volume.</p> <p>15 <b>Q. Can you turn to page five of this</b></p> <p>16 <b>document?</b></p> <p>17 A. I have turned to page five.</p> <p>18 <b>Q. And can you read the heading on that</b></p> <p>19 <b>page?</b></p> <p>20 A. Letter to BCBA from the director of the</p> <p>21 Missouri State Public Defender's office.</p> <p>22 <b>Q. And this is a roughly two-page letter</b></p> <p>23 <b>that purports to have been written by you; is that</b></p> <p>24 <b>correct?</b></p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 98</p> <p>1 with both the local offices and some of the local</p> <p>2 judiciary as well as members of the private bar in</p> <p>3 Boone County.</p> <p>4 Sharing both what -- what I know about</p> <p>5 our obligations and -- but my expectation would be</p> <p>6 that the lawyers in -- that I'm responsible for</p> <p>7 overseeing practice within the rules of professional</p> <p>8 conduct, and if they are unable to provide</p> <p>9 representation for their existing clients, that they</p> <p>10 have an obligation under the rules to move to</p> <p>11 withdraw.</p> <p>12 If they cannot accept new cases, to</p> <p>13 notify their management that that's the case, and I</p> <p>14 would expect if -- if no one is available for those</p> <p>15 reasons in a local office that the district defender</p> <p>16 or the deputy district defender would notify me so</p> <p>17 that I'm aware what offices in the state are not</p> <p>18 accepting new cases.</p> <p>19 <b>Q. And -- and what in your view is the</b></p> <p>20 <b>impact of all of this on indigent defendants in</b></p> <p>21 <b>Missouri?</b></p> <p>22 A. I think it's -- it's impacting their</p> <p>23 rights under the Sixth Amendment to have effective,</p> <p>24 competent representation that's not conflicted that</p> <p>25 they're entitled to prior to -- as part of due</p>	<p style="text-align: right;">Page 100</p> <p>1 <b>Q. And did you in fact write this letter?</b></p> <p>2 A. Yes.</p> <p>3 <b>Q. And did you send it to the Boone County</b></p> <p>4 <b>Bar Association?</b></p> <p>5 A. I sent it to the chair of -- I think</p> <p>6 the committee is criminal defense committee within</p> <p>7 the Boone criminal law committee it might be. The</p> <p>8 individual's name is Jeff Hilbrenner.</p> <p>9 <b>Q. Okay. And do you recall when you sent</b></p> <p>10 <b>this letter?</b></p> <p>11 A. I don't precisely.</p> <p>12 <b>Q. Have you written any similar letters to</b></p> <p>13 <b>other officials in other counties around the state?</b></p> <p>14 A. No.</p> <p>15 MR. WILLIAMSON: I think I'm done. I</p> <p>16 don't know whether Mr. Quinlan has questions or</p> <p>17 whether Ms. Shipma has questions. I will --</p> <p>18 THE WITNESS: Can we take a bathroom</p> <p>19 break?</p> <p>20 MR. WILLIAMSON: -- reserve the right</p> <p>21 to respond to that. Yes, why don't we go off</p> <p>22 record?</p> <p>23 VIDEOGRAPHER: We're going off the</p> <p>24 record at approximately 10:47 a.m.</p> <p>25 (WHEREIN, a recess was taken.)</p>

25 (Pages 97 to 100)



<p style="text-align: right;">Page 101</p> <p>1 VIDEOGRAPHER: We're back on the record 2 at approximately 10:53 a.m. 3 EXAMINATION 4 QUESTIONS BY MR. QUINLAN: 5 <b>Q. Mr. Barrett, I'll reintroduce myself.</b> 6 <b>I'm Michael Quinlan, and I'm the chief of the</b> 7 <b>litigation section for the Missouri Attorney</b> 8 <b>General's office representing the State of Missouri</b> 9 <b>and Governor Greitens. Listening to your testimony</b> 10 <b>this morning it's -- my takeaway is that you view</b> 11 <b>the -- the principal concern in your office</b> 12 <b>statewide is the caseloads?</b> 13 A. Yes. 14 <b>Q. Okay. And it's the caseloads that are</b> 15 <b>presenting the concern in your mind as to the</b> 16 <b>constitutional adequacy of representation of</b> 17 <b>indigent defendants that are represented by your</b> 18 <b>office?</b> 19 A. Yes. 20 <b>Q. And I know we've spoken before, and I</b> 21 <b>don't want to -- but I think we've -- one of the</b> 22 <b>things we've talked about in other context is that</b> 23 <b>there are two ways to reduce caseloads or reduce --</b> 24 <b>or to solve the problem of a caseload problem. One</b> 25 <b>you've identified already, I think you said we need</b></p>	<p style="text-align: right;">Page 103</p> <p>1 <b>Q. So if prosecutors would -- in those</b> 2 <b>cases anyway as I understand, that prosecutors have</b> 3 <b>brought more cases in those -- in those counties?</b> 4 A. Yes. 5 <b>Q. And by -- by on the same token if they</b> 6 <b>were to bring fewer cases you'd have fewer cases in</b> 7 <b>your caseloads?</b> 8 A. Mathematically, yes. 9 <b>Q. Yes. And one of the things that we</b> 10 <b>spent some time talking about this morning is --</b> 11 <b>well, we can just go right to the issue raised by I</b> 12 <b>think it was the oral argument in -- in the Supreme</b> 13 <b>Court case referred to in Exhibit 2, your -- your</b> 14 <b>letter. Do you have that in front of you? And --</b> 15 A. I do. 16 <b>Q. -- what's happening in -- for example,</b> 17 <b>in one particular instance is Boone County, where</b> 18 <b>that office has indicated that they're not going to</b> 19 <b>accept any more cases?</b> 20 A. You started off talking about the 21 letter and then you went to Boone County. 22 <b>Q. Right.</b> 23 A. What's the question? 24 <b>Q. Well, I think that -- I thought there</b> 25 <b>was a temporal correspondence between when you</b></p>
<p style="text-align: right;">Page 102</p> <p>1 <b>to have more lawyers in your office?</b> 2 A. Have I said that before? Is that your 3 question? 4 <b>Q. Well, you said -- you said you need</b> 5 <b>north of 300 lawyers and you weren't sure whether</b> 6 <b>that was all for trial counsel or statewide?</b> 7 A. Yes. 8 <b>Q. But statewide you need more lawyers?</b> 9 A. That's one way to solve it, yes. 10 <b>Q. Okay. And then the other one we</b> 11 <b>discussed in the past is to reduce the number of</b> 12 <b>clients by I think we had talked about changing laws</b> 13 <b>to -- to reduce who gets charged with crimes?</b> 14 A. Conceivably, yes. 15 <b>Q. And you've kind of experienced that as</b> 16 <b>I understand your testimony today in a couple of</b> 17 <b>counties, I think you said Greene County and Union,</b> 18 <b>in which prosecutors made some changes, added some</b> 19 <b>personnel, were able to bring more cases. So</b> 20 <b>that -- that increased your caseload problem in</b> 21 <b>those jurisdictions, correct?</b> 22 A. I don't know if that's the only thing 23 that caused those caseloads to go up in that 24 jurisdiction, but I would -- I would say that yes, 25 that's contributed to the caseload increase.</p>	<p style="text-align: right;">Page 104</p> <p>1 <b>issued the letter and then this e-mail regarding</b> 2 <b>Boone County? But --</b> 3 A. Yes, there's -- the Boone County action 4 seemed to be subsequent to my letter. 5 <b>Q. And -- and your letter was basically a</b> 6 <b>reassurance of the assistant public defenders in the</b> 7 <b>system that you're responsible for that they had the</b> 8 <b>freedom -- in fact, I think you said the obligation</b> 9 <b>to turn down cases if they felt their caseloads were</b> 10 <b>too high?</b> 11 A. That's my understanding of the rules of 12 professional conduct, yes. 13 <b>Q. I understand. That's my understanding</b> 14 <b>as well. So what we have happening apparently in --</b> 15 <b>according to is it Judge Crane in Boone County is a</b> 16 <b>partial privatization of the representation of</b> 17 <b>indigent defendants; is that a fair statement?</b> 18 A. I think it's a fair statement. I don't 19 know to the extent to which Judge Crane has taken 20 action toward that end. As I mentioned earlier, I'm 21 aware of one -- one specific individual who received 22 an appointment. 23 <b>Q. Well, in Exhibit 3 he says due to the</b> 24 <b>correspondence received today, so on --</b> 25 MS. SHIPMA: You're referring to</p>

Page 105	Page 107
<p>1 Exhibit 3 now?</p> <p>2 MR. QUINLAN: I'm referring to</p> <p>3 Exhibit 3, right.</p> <p>4 <b>Q. (By Mr. Quinlan) Okay. (Quote as</b></p> <p>5 <b>read):</b></p> <p>6 <b>Due to the correspondence received</b></p> <p>7 <b>today, September 6 from Boone County</b></p> <p>8 <b>public defender Wallis, the Boone</b></p> <p>9 <b>County Court will begin effective today</b></p> <p>10 <b>at 1:30 p.m. dockets to appoint members</b></p> <p>11 <b>of the private bar to represent</b></p> <p>12 <b>criminal defendants.</b></p> <p>13 <b>Is that an indication there's at least</b></p> <p>14 <b>a partial privatization of the representation of</b></p> <p>15 <b>indepem -- indigent defendants in Boone County?</b></p> <p>16 A. It seems to represent what Judge</p> <p>17 Crane's intent is. I just can't testify as to the</p> <p>18 extent to which he's carried that out.</p> <p>19 <b>Q. He's carried that out. But that is one</b></p> <p>20 <b>of the solutions to the caseload problem that your</b></p> <p>21 <b>office -- that indigent defendants in Missouri face,</b></p> <p>22 <b>isn't it?</b></p> <p>23 A. Can you restate the question, please?</p> <p>24 <b>Q. Partial privatization is one solution</b></p> <p>25 <b>to the -- the issue or the problem, the concern</b></p>	<p>1 <b>Q. No, but I'm asking you, though, is --</b></p> <p>2 <b>are you telling me that you don't believe that --</b></p> <p>3 <b>that the courts have the obligation to assure that</b></p> <p>4 <b>the defendant has competent nonconflicted</b></p> <p>5 <b>representation, whether private or public?</b></p> <p>6 A. I believe that that's part of the</p> <p>7 court's obligation is that someone has competent</p> <p>8 nonconflicted representation, yes.</p> <p>9 <b>Q. It's part of the court's job is to</b></p> <p>10 <b>ensure that each defendant has competent</b></p> <p>11 <b>nonconflicted representation whether public or</b></p> <p>12 <b>private?</b></p> <p>13 A. I believe that's part of the court's</p> <p>14 duty.</p> <p>15 <b>Q. And that's -- so therefore that's --</b></p> <p>16 <b>that's something that is at least conceptually</b></p> <p>17 <b>possible to have competent, nonconflicted</b></p> <p>18 <b>representation, whether public or private?</b></p> <p>19 A. I'm not being coy. I'm -- just my</p> <p>20 knowledge the public defender world is a small world</p> <p>21 and I'm aware of practices in other states. I'm not</p> <p>22 aware of any privatization, a state that's</p> <p>23 privatized that is achieving the ends of -- of</p> <p>24 competent representation.</p> <p>25 <b>Q. And again, that's not your job, that's</b></p>
Page 106	Page 108
<p>1 <b>faced by indigent defendant -- indigent defendants</b></p> <p>2 <b>in Missouri based on the caseload issues that your</b></p> <p>3 <b>office is having?</b></p> <p>4 A. I can't say that that's the case. I</p> <p>5 don't know whether Judge Crane's actions toward the</p> <p>6 end that he stated is going to provide adequate or</p> <p>7 competent representation for these individuals.</p> <p>8 <b>Q. But that's not your role, is it?</b></p> <p>9 A. But you asked the question of whether</p> <p>10 that was a solution.</p> <p>11 <b>Q. That's one possible solution, correct?</b></p> <p>12 A. I don't know the answer to that.</p> <p>13 <b>Q. Well, if Judge Crane as the chief --</b></p> <p>14 <b>apparently the chief judge of Boone County is able</b></p> <p>15 <b>to assure to his satisfaction the satisfaction of</b></p> <p>16 <b>the courts the competent nonconflicted</b></p> <p>17 <b>representation of indigent defendants through this</b></p> <p>18 <b>private appoint -- appointment of private counsel,</b></p> <p>19 <b>that would be a -- a solution to the -- the problem</b></p> <p>20 <b>you identify in Missouri of -- of indigent</b></p> <p>21 <b>defendants having representation?</b></p> <p>22 A. Judge Crane wouldn't to my</p> <p>23 understanding be an arbiter on the issue of</p> <p>24 conflicted representation. That would be borne by</p> <p>25 the individual attorney.</p>	<p>1 <b>the court's job to achieve that end?</b></p> <p>2 A. Yes.</p> <p>3 <b>Q. Okay. So that's not really something</b></p> <p>4 <b>you need to worry about?</b></p> <p>5 A. But I don't know whether -- I don't</p> <p>6 know whether it's possible.</p> <p>7 <b>Q. Okay. Well, apparently Judge Crane</b></p> <p>8 <b>thinks it is.</b></p> <p>9 A. I can't testify as to what Judge Crane</p> <p>10 thinks.</p> <p>11 <b>Q. I believe your testimony was that you</b></p> <p>12 <b>stated -- are you saying that you're not able to say</b></p> <p>13 <b>whether partial privatization is a viable option</b></p> <p>14 <b>conceptually?</b></p> <p>15 A. To achieve competent representation,</p> <p>16 I'm not -- I'm not sure there are the number of</p> <p>17 lawyers in the private bar who practice criminal</p> <p>18 defense to take these cases competently given the</p> <p>19 number of cases that exist from year to year, so I</p> <p>20 can't say that that's a viable option, no.</p> <p>21 <b>Q. So if there was a -- if there was a</b></p> <p>22 <b>system, say a voucher system in which the state gave</b></p> <p>23 <b>a voucher to an indigent defendant and said find a</b></p> <p>24 <b>private lawyer or the court appointed them a private</b></p> <p>25 <b>lawyer from which they would be paid, are you saying</b></p>

27 (Pages 105 to 108)

<p style="text-align: right;">Page 109</p> <p>1 <b>that -- that conceptually speaking that it's</b>  2 <b>impossible for that -- those criminal defendants to</b>  3 <b>get competent representation?</b>  4 A. I won't -- I won't testify as to  5 whether it is possible or impossible. I will say  6 this. We have areas of the state that are lawyer  7 deserts, and one of the -- the things that we employ  8 to get lawyers to certain areas of the court is if  9 they're looking for a job in MSPD and there's not a  10 position available in the office of their  11 preference, we ask them to come to join the system  12 and go to an underutilized area of the state for a  13 period of two years, and that at which point they  14 can be eligible for a transfer into another office.  15 This is a tool that we use to get lawyers to  16 counties where there are otherwise not a lot of --  17 or any criminal defense lawyers.  18 <b>Q. Are you suggesting that the only way</b>  19 <b>for indigent defendants in Missouri to get competent</b>  20 <b>legal representation is through your system?</b>  21 A. I'm not -- I'm not saying that, but I  22 am saying I'm not sure that your suggestion I can  23 state on the record is a viable alternative.  24 <b>Q. Are you able to say definitively that</b>  25 <b>it is not viable?</b></p>	<p style="text-align: right;">Page 111</p> <p>1 <b>Exhibit 4 that are -- that are deserts?</b>  2 A. Can you restate the question, please?  3 <b>Q. Yeah, are there any -- are there any</b>  4 <b>suburban or urban areas as you used those terms in</b>  5 <b>-- in relationship to your questions regarding</b>  6 <b>Exhibit 4 that you would consider to be lawyer</b>  7 <b>deserts?</b>  8 A. I would not consider any of those areas  9 that I've either previously labeled my term suburban  10 or urban that are lawyer deserts.  11 <b>Q. And so you would be limiting this con</b>  12 <b>-- this idea of the lawyer desert to only those</b>  13 <b>which you would characterize as rural?</b>  14 A. No.  15 <b>Q. Okay. What others besides the rural?</b>  16 <b>Let me ask you this first. Would you consider</b>  17 <b>rural -- are you saying then that not all rural --</b>  18 <b>let's just start over again, shall we?</b>  19 <b>Are you saying that not all rural</b>  20 <b>offices are deserts?</b>  21 A. I think that's true. Can I restate  22 your question so I make sure I understand it?  23 <b>Q. Sure.</b>  24 A. Just because a rural -- an area is  25 rural doesn't mean it's a desert.</p>
<p style="text-align: right;">Page 110</p> <p>1 A. Can you make another go at that one?  2 <b>Q. You just testified that you're not able</b>  3 <b>to say that a -- that conceptually a --</b>  4 A. I understand.  5 <b>Q. -- program of partial privatization,</b>  6 <b>what I understand you to be saying is that</b>  7 <b>conceptually you're not able to say, again,</b>  8 <b>conceptually that a -- a system of partial</b>  9 <b>privatization would provide effective assistance of</b>  10 <b>counsel to indigent defendants. Are you able to</b>  11 <b>rule it out categorically?</b>  12 A. Yes, because I don't have an answer for  13 how you would otherwise get lawyers to certain areas  14 of the state who would be willing to take these  15 cases in the volume that they're coming in because I  16 don't have confidence on that. I can't -- I  17 can't -- I can't -- I can't acknowledge that.  18 <b>Q. So that's in those areas that you</b>  19 <b>called I think lawyer deserts?</b>  20 A. Yes.  21 <b>Q. And those are rural areas?</b>  22 A. Yes, I would categorize most of them as  23 rural areas.  24 <b>Q. Are there any urban or suburban areas</b>  25 <b>according to the usage that you made with respect to</b></p>	<p style="text-align: right;">Page 112</p> <p>1 <b>Q. You understood my question.</b>  2 A. Yes.  3 <b>Q. And so there -- so these -- these</b>  4 <b>lawyer deserts that you refer to are -- are some of,</b>  5 <b>but not all of, the rural offices that you have?</b>  6 A. I think that's right.  7 <b>Q. Okay. But with respect to the offices</b>  8 <b>in the state that are not lawyer deserts --</b>  9 A. Yes.  10 <b>Q. -- conceptually a program of partial</b>  11 <b>privatization is -- is potentially viable?</b>  12 A. I don't know -- I don't know -- I don't  13 know whether that's the case. There's other  14 obstacles that I'm aware of.  15 <b>Q. You can't say one way or the other?</b>  16 A. I can't -- I don't know -- there's no  17 particulars that you've provided of what  18 privatization looks like for me to make an  19 assessment as to whether it's viable or not.  20 <b>Q. And I'm trying to be general on</b>  21 <b>purpose --</b>  22 A. I understand.  23 <b>Q. -- because what I'm saying is</b>  24 <b>conceptually -- because what we have apparently</b>  25 <b>happening already in Boone County is a form of</b></p>

28 (Pages 109 to 112)

<p style="text-align: right;">Page 113</p> <p>1 <b>privatization.</b></p> <p>2 A. We don't know whether --</p> <p>3 <b>Q. Would you agree with that?</b></p> <p>4 A. We don't know whether that's working.</p> <p>5 <b>Q. We don't -- agreed. We don't know that</b></p> <p>6 <b>that's working yet, but we don't know that it won't</b></p> <p>7 <b>work either, do we?</b></p> <p>8 A. I don't know one way or the other.</p> <p>9 <b>Q. You know, I've often referred to this</b></p> <p>10 <b>-- this phrase as -- adage necessity is the mother</b></p> <p>11 <b>of invention. It could be that the necessity that's</b></p> <p>12 <b>created by what's happening with your local office</b></p> <p>13 <b>in -- in Boone County could lead to the invention of</b></p> <p>14 <b>some -- some solution that could be translated</b></p> <p>15 <b>statewide, would you agree?</b></p> <p>16 A. No, I wouldn't agree. I don't -- I</p> <p>17 don't know the answer to that.</p> <p>18 <b>Q. You don't know one way or the other?</b></p> <p>19 A. I don't know one way or the other.</p> <p>20 <b>Q. Okay. So you're not able to say</b></p> <p>21 <b>whether conceptually speaking -- and as I said</b></p> <p>22 <b>before, I'm using that broadly because I think that</b></p> <p>23 <b>there are a lot of potential proposals if you will</b></p> <p>24 <b>for -- for partial privatization. In fact, I think</b></p> <p>25 <b>you use one, don't you? Your Code 49 program is --</b></p>	<p style="text-align: right;">Page 115</p> <p>1 complaint says or whether that is indeed accurate?</p> <p>2 <b>Q. Let's go over the facts regardless of</b></p> <p>3 <b>what the pleadings are. I'm assuming the pleading</b></p> <p>4 <b>is accurate and that, but if you -- if you have a</b></p> <p>5 <b>different answer, let's go with that.</b></p> <p>6 A. I -- I would refer you to either</p> <p>7 Mr. Elmer or Mr. Mermelstein, preferably</p> <p>8 Mr. Mermelstein. I heard another date, but I can't</p> <p>9 attest to whether one is accurate or another.</p> <p>10 <b>Q. What is the date that you heard?</b></p> <p>11 A. I thought it was earlier in the</p> <p>12 eighties to be --</p> <p>13 <b>Q. But sometime in the 1980s?</b></p> <p>14 A. I believe so.</p> <p>15 <b>Q. Okay. The reason I bring that up is</b></p> <p>16 <b>because it seems like in paragraph 49 of the</b></p> <p>17 <b>complaint, as early as 1993 we were already getting</b></p> <p>18 <b>Spangenberg Group reports finding fault with the --</b></p> <p>19 <b>with the way the Missouri public defender system was</b></p> <p>20 <b>-- was not providing adequate representation?</b></p> <p>21 MS. SHIPMA: I'm going to -- if you're</p> <p>22 going to refer him to specific paragraphs in the</p> <p>23 petition, can we please provide that to him?</p> <p>24 MR. QUINLAN: Sure I did.</p> <p>25 MS. SHIPMA: He doesn't have that in</p>
<p style="text-align: right;">Page 114</p> <p>1 <b>could be characterized as a form of partial</b></p> <p>2 <b>privatization, isn't it?</b></p> <p>3 A. Yes, to the extent that we contract</p> <p>4 with private lawyers to provide services --</p> <p>5 <b>Q. When you have conflict, right?</b></p> <p>6 A. When there's a conflict.</p> <p>7 <b>Q. Right.</b></p> <p>8 A. We would not label this program as</p> <p>9 ideal. It's got pluses and minuses.</p> <p>10 <b>Q. As all programs do?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. In fact, your -- I mean, the Missouri</b></p> <p>13 <b>public defender system is just such a system. It's</b></p> <p>14 <b>got pluses and it's got its minuses?</b></p> <p>15 A. As everything does.</p> <p>16 <b>Q. And I don't know whether you can answer</b></p> <p>17 <b>this question. When I was doing a little bit of</b></p> <p>18 <b>preparation, I was looking at the -- the lawsuit</b></p> <p>19 <b>paper here, and -- pleading, the complaint in this</b></p> <p>20 <b>case. And I know it's not your -- your document,</b></p> <p>21 <b>but one of the allegations is the public -- the</b></p> <p>22 <b>public defender system as currently constituted over</b></p> <p>23 <b>which you now preside was established in 1989. Is</b></p> <p>24 <b>that your understanding?</b></p> <p>25 A. Are you asking me as to what the</p>	<p style="text-align: right;">Page 116</p> <p>1 front of him.</p> <p>2 MR. QUINLAN: Paragraph 49.</p> <p>3 MS. SHIPMA: He doesn't have the</p> <p>4 petition in front of him.</p> <p>5 MR. QUINLAN: I'm happy to show this.</p> <p>6 I'm going to move on from this. It's really an</p> <p>7 embellishment of my earlier question.</p> <p>8 MR. WILLIAMSON: Are you entering this</p> <p>9 as an exhibit?</p> <p>10 MR. QUINLAN: No, it's on the -- it's a</p> <p>11 matter of record in the case. So 49 --</p> <p>12 MS. SHIPMA: But it's not -- it's not</p> <p>13 an exhibit to the deposition, so if you need him to</p> <p>14 refer to it --</p> <p>15 MR. QUINLAN: I can just withdraw it.</p> <p>16 If you don't know whether there was a 1993</p> <p>17 Spangenberg report --</p> <p>18 MS. SHIPMA: That's not what you asked</p> <p>19 him. You asked him what paragraph 49 referred to.</p> <p>20 MR. QUINLAN: No, I referred -- no, no,</p> <p>21 no. I referred to paragraph 49 --</p> <p>22 MS. SHIPMA: Yes.</p> <p>23 MR. QUINLAN: -- and the report that's</p> <p>24 referred to there.</p> <p>25 MS. SHIPMA: So is your question</p>

29 (Pages 113 to 116)

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

Case 2:17-cv-04057-NKL Document 153-8 Filed 02/09/18 Page 30 of 77

<p style="text-align: right;">Page 117</p> <p>1 whether there was a 1993 Spangenberg report?</p> <p>2 <b>Q. (By Mr. Quinlan) Yeah, I can -- are</b></p> <p>3 <b>you aware that there was a 1993 Spangenberg report</b></p> <p>4 <b>that found fault with a representation being</b></p> <p>5 <b>provided to indigent defendants in Missouri --</b></p> <p>6 <b>(Court reporter interruption.)</b></p> <p>7 <b>Q. (By Mr. Quinlan) That found fault with</b></p> <p>8 <b>deficiencies in the public defender system as it's</b></p> <p>9 <b>currently constituted in Missouri?</b></p> <p>10 A. Counsel, I'm -- I'm familiar -- I'm</p> <p>11 aware that there's been several Spangenberg reports</p> <p>12 that study the public defender system. I cannot</p> <p>13 tell you what years they were. Just that they were</p> <p>14 over a period of a number of years and they made a</p> <p>15 number of findings, and I can't specifically state</p> <p>16 whether that Spangenberg report made that</p> <p>17 conclusion.</p> <p>18 <b>Q. Have you ever seen a Spangenberg report</b></p> <p>19 <b>that gave a clean bill of health to the Missouri</b></p> <p>20 <b>public defender system?</b></p> <p>21 A. I don't know what you mean by clean</p> <p>22 bill of health.</p> <p>23 <b>Q. That said that they were doing</b></p> <p>24 <b>everything right, that they were providing adequate</b></p> <p>25 <b>assistance to indigent defendants?</b></p>	<p style="text-align: right;">Page 119</p> <p>1 <b>defender system doesn't have enough resources?</b></p> <p>2 A. That's my understanding of the -- of</p> <p>3 the general conclusions of each one of these reports</p> <p>4 over the course of a period beginning in the</p> <p>5 eighties.</p> <p>6 <b>Q. And is it your position as the director</b></p> <p>7 <b>of the Missouri public defender's system the only</b></p> <p>8 <b>solution to the caseload problem is an increase in</b></p> <p>9 <b>funding?</b></p> <p>10 A. No.</p> <p>11 <b>Q. What other solutions?</b></p> <p>12 A. Fewer cases.</p> <p>13 <b>Q. Fewer cases. And achieving fewer</b></p> <p>14 <b>cases, one of the ways of achieving fewer cases</b></p> <p>15 <b>within your office is to -- to appoint other</b></p> <p>16 <b>attorneys outside of your office to represent those</b></p> <p>17 <b>indigent -- indigent defendants, correct?</b></p> <p>18 A. No. No.</p> <p>19 <b>Q. That's not one of the solutions to --</b></p> <p>20 A. I'm sorry, I thought you said the</p> <p>21 solution. My fault.</p> <p>22 <b>Q. One solution to reduce the number of</b></p> <p>23 <b>cases that come into your office is to have a system</b></p> <p>24 <b>by which indigent defendants are appointed an</b></p> <p>25 <b>attorney outside of your system?</b></p>
<p style="text-align: right;">Page 118</p> <p>1 A. To the extent that I'm familiar with</p> <p>2 that conclusion, it is my understanding that the</p> <p>3 Spangenberg report tied that conclusion in some way</p> <p>4 to the unavailability of resources.</p> <p>5 <b>Q. And my question, though, was are you</b></p> <p>6 <b>aware of any Spangenberg report which basically said</b></p> <p>7 <b>that the -- that the public defender system was</b></p> <p>8 <b>functioning properly and appropriately in providing</b></p> <p>9 <b>in all respects representation to indigent</b></p> <p>10 <b>defendants?</b></p> <p>11 A. Given the number of reports that</p> <p>12 started in the early eighties with the legislative</p> <p>13 report, I have to tell you, Counsel, I'm not being</p> <p>14 coy, they bleed together for me.</p> <p>15 <b>Q. Get it.</b></p> <p>16 A. And to the -- my answer is to the</p> <p>17 extent that I'm aware of deficiencies of the MSPD as</p> <p>18 pointed out by any number of reports, that that</p> <p>19 conclusion is always in my memory tied to</p> <p>20 unavailability of the requisite resources to fulfill</p> <p>21 the charge of the --</p> <p>22 <b>Q. So what you're saying, though, is of</b></p> <p>23 <b>these reports and they're -- and they're cataloged</b></p> <p>24 <b>in the complaint in this case, the -- the diagnosis</b></p> <p>25 <b>of the problem is is that the Missouri public</b></p>	<p style="text-align: right;">Page 120</p> <p>1 A. That's the mechanism we currently</p> <p>2 utilize to handle conflict cases to the extent to</p> <p>3 which we are funded to do so.</p> <p>4 <b>Q. Right. And so -- right. And so -- and</b></p> <p>5 <b>you talked about that. There's -- there's been</b></p> <p>6 <b>funding allowed for your office to retain</b></p> <p>7 <b>independent private counsel to represent indigent</b></p> <p>8 <b>defendants whose case presents a conflict with cases</b></p> <p>9 <b>that your office is handling, correct?</b></p> <p>10 A. Notwithstanding the warts of that</p> <p>11 system, yes.</p> <p>12 <b>Q. And what are the warts of that system?</b></p> <p>13 A. There are several. The research that</p> <p>14 I'm familiar with in the area of defense</p> <p>15 representation informs me that public defenders do</p> <p>16 as well as skilled criminal defense practitioners,</p> <p>17 what I would characterize my words as high dollar</p> <p>18 practitioners.</p> <p>19 But where the results drop off</p> <p>20 significantly is utilizing what's referred to as</p> <p>21 flat fee contract lawyers because there's con --</p> <p>22 some consensus around the idea that when you give an</p> <p>23 attorney a flat amount, regardless of the amount of</p> <p>24 work that they do, it will encourage them to do the</p> <p>25 least amount of work to receive those funds. For</p>

30 (Pages 117 to 120)



<p style="text-align: right;">Page 121</p> <p>1 that reason the outcomes are not as good than using 2 public defenders.</p> <p>3 <b>Q. And are you saying that that creates a</b> 4 <b>distinction between the quality of work that the</b> 5 <b>lawyers in your system provide compared to private</b> 6 <b>lawyers?</b></p> <p>7 A. We haven't measured that, but that's 8 what the -- the research that I'm familiar with 9 shows. I'm also familiar with, although I don't 10 know the states, I believe they're in the western 11 part of the country, at least in two states I 12 believe have determined that flat fee contract 13 lawyers are not appropriate or maybe it's even 14 unconstitutional in capital cases because it 15 encourages the least amount of work for the money 16 received.</p> <p>17 <b>Q. So your -- so your position would be</b> 18 <b>that the service that your Missouri public defender</b> 19 <b>system lawyers provide to the indigent defendants</b> 20 <b>entrusted to your service is at least as good if not</b> 21 <b>better than services provided by private counsel at</b> 22 <b>least in a flat fee arena?</b></p> <p>23 A. As a general statement I would say 24 that.</p> <p>25 <b>Q. Okay. So -- and is that the basis --</b></p>	<p style="text-align: right;">Page 123</p> <p>1 <b>provided by your APDs?</b></p> <p>2 A. I will say that at least they endeavor 3 to do that.</p> <p>4 <b>Q. They endeavor to do that. And that's</b> 5 <b>one of the -- that's one of the bases in which you</b> 6 <b>believe that the service provided by APDs in your</b> 7 <b>system is superior to that provided by private</b> 8 <b>counsel retained through your Code 49 system?</b></p> <p>9 A. That's -- that's one reason, yes.</p> <p>10 <b>Q. Okay. So you've given me two now.</b> 11 <b>You've given me the flat fee issue I think?</b></p> <p>12 A. Yeah.</p> <p>13 <b>Q. And then you've given me the</b> 14 <b>supervision.</b></p> <p>15 A. Quality assurance.</p> <p>16 <b>Q. And you said there was one other or is</b> 17 <b>there more?</b></p> <p>18 A. Yeah, there's -- there's several 19 others. One other is that if they decide to 20 withdraw, if the private attorney withdraws for any 21 reason, they take another job, they decide that 22 there's a conflict, a lot of times they're not 23 getting along with their client. And --</p> <p>24 <b>Q. Which is probably not an infrequent</b> 25 <b>occurrence in the criminal practice?</b></p>
<p style="text-align: right;">Page 122</p> <p>1 <b>as I gather what you -- what you said is that that's</b> 2 <b>one of the reasons you don't feel like your -- I</b> 3 <b>should put it this way. That's what you've</b> 4 <b>identified as one of the warts with your Code 49</b> 5 <b>system?</b></p> <p>6 A. There -- there are at least two others 7 that come to mind.</p> <p>8 <b>Q. Okay. But that's one of them?</b></p> <p>9 A. That's one of them.</p> <p>10 <b>Q. Okay. And -- and what are the others?</b></p> <p>11 A. Oversight, quality. We provide 12 managerial oversight to the lawyers that we employ. 13 If a lawyer who is part of our panel program, which 14 is the contracting program, the Code 49 program, if 15 they are not meeting with their client, if they are 16 not reviewing the sufficiency of the accusing 17 documentation or asking for discovery, we would not 18 know unless someone in our local office or a judge 19 as -- as occurs from time to time picks up the phone 20 and raises concerns as it relates to that private 21 attorney. So there are quality assurance issues.</p> <p>22 <b>Q. And what you're saying -- is it fair, I</b> 23 <b>understand you correctly, what you're saying is that</b> 24 <b>in your office you have supervising attorneys that</b> 25 <b>-- that see to the -- the quality of services being</b></p>	<p style="text-align: right;">Page 124</p> <p>1 A. Not an infrequent occurrence, I concede 2 that point. And judge allows them withdraw, we 3 don't get that money back. And Mr. Elmer can go 4 into more details on that.</p> <p>5 <b>Q. In that situation when they withdraw,</b> 6 <b>apart from your not getting the money back then do</b> 7 <b>you -- does your system then provide for the</b> 8 <b>retention of a new counsel for that conflict client?</b></p> <p>9 A. Mr. Elmer would probably be in the best 10 position --</p> <p>11 <b>Q. You don't know one way or the other?</b></p> <p>12 A. I have some indication. I can answer 13 to the -- to the extent that I'm able to, but I 14 would refer you to Mr. Elmer to be expert on that 15 question.</p> <p>16 <b>Q. And is it -- and -- and again,</b> 17 <b>deferring to Mr. Elmer, but just for my purposes</b> 18 <b>presently, you have contracts with these attorneys?</b></p> <p>19 A. Yes.</p> <p>20 <b>Q. Okay. And --</b></p> <p>21 A. Agreements, yes. They're essentially 22 contracts.</p> <p>23 <b>Q. Contract. I think you used the word</b> 24 <b>they're contracted attorneys, but that's --</b></p> <p>25 A. Yes, my phraseology.</p>



<p style="text-align: right;">Page 125</p> <p>1 <b>Q. Agreements are contracts. That's the</b>  2 <b>way I learned it in law school.</b>  3 <b>But -- so you -- are these -- are these</b>  4 <b>code 59 -- 49 --</b>  5 A. 49.  6 <b>Q. And by the way, what's the origin of</b>  7 <b>that name?</b>  8 A. When you find out from Mr. Elmer, if  9 you'd let me know, I'd appreciate that.  10 <b>Q. I will. You can stay and listen if you</b>  11 <b>want. You have -- is it your understanding you have</b>  12 <b>like a stable of attorneys that --</b>  13 A. Yeah.  14 <b>Q. -- you have a contract with?</b>  15 A. Yeah.  16 <b>Q. And they agree to take a number of</b>  17 <b>cases?</b>  18 A. Yeah.  19 <b>Q. And you have a contract rate with them?</b>  20 A. The contract rate, which I believe  21 is -- I believe is promulgated in a rule is tied to  22 the type of offense, seriousness of the charge, A, B  23 felonies, C, D felonies, sex case, probation  24 violation.  25 (Court reporter interruption.)</p>	<p style="text-align: right;">Page 127</p> <p>1 exclusively do public defense. That is not  2 necessarily the case with the contract attorneys. I  3 would also say that they do not receive the training  4 that we receive, that public defenders receive as  5 part of the MSPD.  6 <b>Q. Is that -- is that just a way of saying</b>  7 <b>that you have higher-quality lawyers representing</b>  8 <b>the -- the clients in your system?</b>  9 A. As a general rule, in addition to I  10 have an obligation to train the lawyers and make  11 sure that they can competently handle to the extent  12 that that's a reasonable expectation in cases that  13 they receive.  14 <b>Q. So that's another distinction between</b>  15 <b>the representation provided by your office and that</b>  16 <b>provided by the Code 49 attorneys, the private</b>  17 <b>placed attorneys?</b>  18 A. As a general statement.  19 <b>Q. Okay. So -- now, I want to back up a</b>  20 <b>little bit, though. When you say an attorney</b>  21 <b>withdraws, you identify the problem as not getting a</b>  22 <b>refund of the fee or --</b>  23 A. The extent that I'm familiar with is we  24 have no way as a department of state government to  25 receive these funds, and it's my understanding --</p>
<p style="text-align: right;">Page 126</p> <p>1 A. Tied to the severity of the charge.  2 For instance, an A, B felony would -- would yield a  3 higher contract rate than a C, D felony or an E  4 felony.  5 <b>Q. (By Mr. Quinlan) Do you know what any</b>  6 <b>of those rates are offhand?</b>  7 A. I don't. Mr. Elmer would.  8 <b>Q. And is it -- is it -- is it always a</b>  9 <b>fixed fee or is it hourly, do you know?</b>  10 A. It's a fixed fee, but there is some  11 nuance there.  12 <b>Q. Okay.</b>  13 A. I think there's some nuance as it  14 relates to complexity, going to trial, which  15 would -- and that nuance would tie into some  16 discretion by Mr. Elmer.  17 <b>Q. And if there was a withdrawal from --</b>  18 <b>from a client, is there a provision in that contract</b>  19 <b>for a recapture of fees paid that were earned?</b>  20 A. I'd refer you to Mr. Elmer.  21 <b>Q. Okay. So I think you've -- you've</b>  22 <b>counted three for me, three warts as you</b>  23 <b>characterized them on your -- your Code 49 process.</b>  24 <b>Are there any others?</b>  25 A. I would say that public defenders</p>	<p style="text-align: right;">Page 128</p> <p>1 and I would refer you to Mr. Elmer for -- for  2 precision on this, that the money reverts back to  3 the state of Missouri, and that Mr. Elmer then must  4 employ other means by which to balance out the till.  5 <b>Q. He doesn't have the ability as far as</b>  6 <b>you know to go to the office of administration and</b>  7 <b>say funnel that money back to us?</b>  8 A. I don't know whether there's a legal  9 mechanism for that, but I will testify that that's  10 never -- I don't believe that's ever been done  11 before, and I -- I don't think there's a mechanism  12 in place to do that.  13 MS. SHIPMA: That would be a Kathy Lear  14 question.  15 <b>Q. (By Mr. Quinlan) Okay. And is that</b>  16 <b>the only drawback in regard to the withdrawal of</b>  17 <b>private counsel?</b>  18 A. No.  19 <b>Q. Okay. What other drawback is there?</b>  20 A. It presents the question then what  21 happens to the client who has previously been  22 determined to be indigent.  23 <b>Q. Define --</b>  24 A. There's oftentimes a push and pull that  25 occurs with the judge who, again, I'd refer you to</p>

32 (Pages 125 to 128)

<p style="text-align: right;">Page 129</p> <p>1 Mr. Elmer, but I'm aware of these instances where 2 the judge would want us to take the case again. 3 We had this -- something of an 4 elaborate fashion occur recently in Harrisonville 5 where we contracted out a case and the judge took 6 the lawyer off the case and gave the case back to us 7 notwithstanding a conflict occurring. 8 <b>Q. In that case you would either -- you</b> 9 <b>have -- you still would have available to you,</b> 10 <b>wouldn't you, that you appoint -- you'd assign it to</b> 11 <b>another contract attorney or one in another district</b> 12 <b>office? You'd be able to get coverage in other</b> 13 <b>words for that client?</b> 14 A. Possibly. It would depend on whether 15 there are other attorneys in the panel, the panel 16 program who have agreed to take clients in that 17 circuit. Sometimes in these lawyer deserts if 18 there's a contract attorney or attorney wants to 19 participate in the program, and they want to 20 participate only as it relates to county A, but we 21 need coverage in county B, we will ask them to cover 22 county B if they want to be in the program as a way 23 to making more lawyers available. 24 <b>Q. Do you have a method of collecting data</b> 25 <b>on the incidents of that sort of thing happening?</b></p>	<p style="text-align: right;">Page 131</p> <p>1 answer is. Perhaps he hasn't given you the answer 2 you want, but he hasn't -- but he has given you his 3 answer. 4 MR. QUINLAN: He's either taking it off 5 the table or he's not. And I don't think he's been 6 clear on that. 7 <b>Q. (By Mr. Quinlan) In your -- in your</b> 8 <b>judgment, is -- is any kind of program of partial</b> 9 <b>privatization off the table?</b> 10 MS. SHIPMA: And he has answered that. 11 He's told you you're not giving him enough details. 12 MR. QUINLAN: So are you instructing 13 him not too answer? 14 MS. SHIPMA: No, I'm making an 15 objection because you've asked the question. 16 MR. QUINLAN: Then your objection is 17 noted. You may answer. 18 A. I think we've covered that. We 19 currently employ utilizing to a limited extent 20 private attorneys for the purposes of attempting to 21 carry out our mission. 22 I've testified that that program, while 23 necessary given our current resources, has a number 24 of deficiencies that in my estimation limit the 25 ability to meet the -- the goals of competent</p>
<p style="text-align: right;">Page 130</p> <p>1 A. I don't know the answer to that. 2 <b>Q. Who would?</b> 3 A. Joel Elmer would be the first person 4 that I would ask about the capabilities on that. 5 <b>Q. In your view as a -- are -- are you</b> 6 <b>ruling out of order from the beginning any</b> 7 <b>possibility of a partial privatization as a solution</b> 8 <b>to the indigent --</b> 9 MR. WILLIAMSON: Michael, I'm going to 10 object. This question has been asked and 11 answered -- 12 MR. QUINLAN: I haven't finished it. I 13 haven't finished the question. 14 MR. WILLIAMSON: -- three times. 15 MR. QUINLAN: May I? 16 MR. WILLIAMSON: Sure. 17 <b>Q. (By Mr. Quinlan) Are you ruling out as</b> 18 <b>taking off the table the possibility of any form of</b> 19 <b>privatization as a partial solution to the -- the</b> 20 <b>plight of indigent defendants in Missouri?</b> 21 MS. SHIPMA: And this question has been 22 asked and answered at least four times. 23 MR. QUINLAN: I don't think it's been 24 answered, but -- 25 MS. SHIPMA: He has told you what his</p>	<p style="text-align: right;">Page 132</p> <p>1 representation under the Sixth Amendment. 2 <b>Q. Then my next question is is it your</b> 3 <b>view that the only solution to the -- and I think</b> 4 <b>it's referred to in the -- the pleading as the</b> 5 <b>crisis of representation for indigent defendants in</b> 6 <b>Missouri, is the only solution to that problem</b> 7 <b>increased funding for your office?</b> 8 A. No. 9 <b>Q. What other solutions are there?</b> 10 A. Fewer cases. 11 <b>Q. Fewer cases. And how would you</b> 12 <b>recommend that that take place?</b> 13 A. Prosecutors are more selective in the 14 types of cases they file. 15 <b>Q. So you want prosecutors to file fewer</b> 16 <b>cases?</b> 17 A. Ideally, yes, that would be part of the 18 solution. 19 <b>Q. And is that -- okay. Is that the only</b> 20 <b>mechanism that you would recommend for the decrease</b> 21 <b>of cases in your office?</b> 22 A. Say that again. 23 <b>Q. Is that the only mechanism that you</b> 24 <b>recommend, to -- to not file as many -- prosecute as</b> 25 <b>many cases?</b></p>

<p style="text-align: right;">Page 133</p> <p>1 A. Is that the only mechanism I recommend?</p> <p>2 <b>Q. Yeah. See, I asked you -- my question</b></p> <p>3 <b>was -- my first question was is increasing your</b></p> <p>4 <b>funding the only answer to this problem and you said</b></p> <p>5 <b>no, and I said what are the others, and you said not</b></p> <p>6 <b>filing as many cases.</b></p> <p>7 A. I'm stumped because I just thought -- I</p> <p>8 thought we were over this earlier.</p> <p>9 <b>Q. Okay. Other than prosecutors not</b></p> <p>10 <b>filing other cases and increasing your -- what other</b></p> <p>11 <b>mechanisms are there that you would recommend to</b></p> <p>12 <b>solve the crisis of indigent defense representation</b></p> <p>13 <b>in Missouri besides increasing funding for your</b></p> <p>14 <b>office?</b></p> <p>15 A. As I sit here, I don't have any other</p> <p>16 ideas to some other structure or -- or system that</p> <p>17 could given the number of cases in Missouri, the</p> <p>18 availability of attorneys who practice criminal law</p> <p>19 statewide, or in specific jurisdictions, that that's</p> <p>20 a viable alternative without knowing more specifics.</p> <p>21 <b>Q. Well, what more would you need to know?</b></p> <p>22 A. We need to know -- I would need to know</p> <p>23 a lot more. Where -- where are the attorneys that</p> <p>24 are raising their hand to take these cases and what</p> <p>25 are their qualifications and how many cases can they</p>	<p style="text-align: right;">Page 135</p> <p>1 A. That's not true. I -- I already</p> <p>2 testified I think on a couple occasions that there</p> <p>3 are deficiencies related to Code 49 that as director</p> <p>4 of MSPD gives me serious concern about whether for</p> <p>5 those individuals their constitutional rights are</p> <p>6 being upheld.</p> <p>7 <b>Q. Are you aware of any indigent defendant</b></p> <p>8 <b>that your office has placed in a Code 49</b></p> <p>9 <b>representation who has received ineffective</b></p> <p>10 <b>assistance of counsel?</b></p> <p>11 A. I'm aware of quite recently a matter</p> <p>12 in, I alluded to it, in Harrisonville where a case</p> <p>13 was scheduled for trial. I'm going to do my best</p> <p>14 here to give you the facts as I'm aware of them.</p> <p>15 That with trial imminent, that is to</p> <p>16 say the next week or so, according to the judge the</p> <p>17 private attorney with whom we've contracted the case</p> <p>18 had not seen his client in some time, had not --</p> <p>19 that I'm aware provided discovery to that client,</p> <p>20 and with trial imminent the judge made the decision</p> <p>21 to take that lawyer off that case, give the case</p> <p>22 back to us. The judge made a determination -- oh, I</p> <p>23 thought it was odd because the case was not disposed</p> <p>24 of yet that the person was not competent.</p> <p>25 <b>Q. So the person that was assigned by your</b></p>
<p style="text-align: right;">Page 134</p> <p>1 take, for instance?</p> <p>2 <b>Q. If there was a mechanism to pay private</b></p> <p>3 <b>lawyers, there would be -- wouldn't you -- wouldn't</b></p> <p>4 <b>you agree with me, there would be lawyers willing to</b></p> <p>5 <b>take cases?</b></p> <p>6 A. I can't say that for sure.</p> <p>7 <b>Q. Well, that's your experience with the</b></p> <p>8 <b>Code 49 cases, isn't it?</b></p> <p>9 A. We have --</p> <p>10 <b>Q. Leaving aside the deserts?</b></p> <p>11 A. But there's other things that we have</p> <p>12 done that I've alluded to earlier. For instance, a</p> <p>13 lawyer, private lawyer only raises his hand for two</p> <p>14 counties in a five-county circuit.</p> <p>15 Mr. Elmer makes efforts to condition</p> <p>16 their involvement in the program on receiving cases</p> <p>17 in all the counties in the circuit. So there's</p> <p>18 steps that -- that I know that -- that I'm aware of</p> <p>19 that Mr. Elmer takes to achieve that.</p> <p>20 <b>Q. Are there any privatization proposals</b></p> <p>21 <b>that you would find acceptable?</b></p> <p>22 MR. WILLIAMSON: Objection.</p> <p>23 A. I -- I don't know how to answer that.</p> <p>24 <b>Q. (By Mr. Quinlan) Apart from Code 49</b></p> <p>25 <b>because you obviously find that acceptable.</b></p>	<p style="text-align: right;">Page 136</p> <p>1 <b>office under your Code 49 proceeding was deemed by</b></p> <p>2 <b>the trial court to be incompetent?</b></p> <p>3 A. According to the judge.</p> <p>4 <b>Q. Okay. And removed him from the case</b></p> <p>5 <b>prior to trial?</b></p> <p>6 A. Yes.</p> <p>7 <b>Q. And appointed your office to represent</b></p> <p>8 <b>the defendant in the trial?</b></p> <p>9 A. Yes. That decision was --</p> <p>10 <b>Q. Was the trial continued?</b></p> <p>11 A. I'm not aware. I'm aware that that</p> <p>12 decision has since been reversed. I think the</p> <p>13 terminology is ordered vacated perhaps and that</p> <p>14 Mr. Elmer may know more on that, but that's the --</p> <p>15 that's all I know on it.</p> <p>16 <b>Q. The order removing the incompetent</b></p> <p>17 <b>counsel has been reversed?</b></p> <p>18 A. I believe.</p> <p>19 <b>Q. Or the reassignment -- the reassignment</b></p> <p>20 <b>to your office has been reversed?</b></p> <p>21 A. I know the reassignment to my office</p> <p>22 has been reversed. I do not believe that we are in</p> <p>23 on that case.</p> <p>24 <b>Q. Do you know whether or not that</b></p> <p>25 <b>defendant has suffered any prejudice as a result of</b></p>

<p style="text-align: right;">Page 137</p> <p>1 <b>the court's removal of the attorney?</b></p> <p>2 A. I don't know if -- I don't think -- I'm</p> <p>3 not aware that the case has been resolved yet.</p> <p>4 <b>Q. Okay. So my question was are you aware</b></p> <p>5 <b>of any case in which an attorney appointed by your</b></p> <p>6 <b>office pursuant to your Code 49 program has -- has</b></p> <p>7 <b>suffered an ineffective assistance of counsel</b></p> <p>8 <b>whereby he was or she was prejudiced, wrongfully</b></p> <p>9 <b>convicted?</b></p> <p>10 A. I'm not aware one way or the other.</p> <p>11 <b>Q. Are you aware more generally in your</b></p> <p>12 <b>office in -- either in your tenure or any</b></p> <p>13 <b>information you have about issues prior to your</b></p> <p>14 <b>tenure whether any public defender has been found to</b></p> <p>15 <b>have ineffectively -- rendered ineffective</b></p> <p>16 <b>assistance to a defendant?</b></p> <p>17 A. Yes.</p> <p>18 <b>Q. In which there's been prejudice,</b></p> <p>19 <b>wrongful conviction?</b></p> <p>20 A. These -- these occur --</p> <p>21 <b>Q. I don't -- I don't need -- by the way,</b></p> <p>22 <b>I don't need you to go through the cases one by one.</b></p> <p>23 <b>Just are you aware?</b></p> <p>24 A. Right. Where -- where there's been</p> <p>25 determination of a wrongful conviction.</p>	<p style="text-align: right;">Page 139</p> <p>1 know that the post-conviction relief units regularly</p> <p>2 get relief in whatever form they get relief in. It</p> <p>3 varies. And I'm aware of generally that they</p> <p>4 receive relief for their clients. The specifics</p> <p>5 regarding any one of them is not something I keep</p> <p>6 tabs on.</p> <p>7 <b>Q. But -- but does your post-conviction</b></p> <p>8 <b>relief office team, function within your office,</b></p> <p>9 <b>represent claims of ineffective assistance of</b></p> <p>10 <b>counsel by MSPD lawyers?</b></p> <p>11 A. Yes, and I'd refer you to Greg</p> <p>12 Mermelstein on that. He'll be able to answer those</p> <p>13 questions.</p> <p>14 <b>Q. But they also represent indigent</b></p> <p>15 <b>defendants in post-conviction relief cases for</b></p> <p>16 <b>indigent defendants not previously represented by</b></p> <p>17 <b>the public defender system?</b></p> <p>18 A. I'd refer you to Mr. Mermelstein on</p> <p>19 that.</p> <p>20 <b>Q. But whatever post-conviction relief may</b></p> <p>21 <b>-- may be achieved in your office, you're not aware</b></p> <p>22 <b>of any of that having ever been achieved because of</b></p> <p>23 <b>a finding of ineffective assistance of counsel by a</b></p> <p>24 <b>public defender?</b></p> <p>25 A. I'd refer you to Mr. Mermelstein. I'm</p>
<p style="text-align: right;">Page 138</p> <p>1 <b>Q. There's been a determination of</b></p> <p>2 <b>ineffective assistance of counsel?</b></p> <p>3 A. Not to my knowledge. Mr. Mermelstein</p> <p>4 may know more on that.</p> <p>5 <b>Q. And -- and how far back does your</b></p> <p>6 <b>knowledge reach?</b></p> <p>7 A. Well, temporally it would go back</p> <p>8 between two and three years, but that's not to say</p> <p>9 that just given that time period that I'd be aware</p> <p>10 of all instances that occurred during that time</p> <p>11 period.</p> <p>12 <b>Q. And you're talking about your tenure as</b></p> <p>13 <b>the -- as the -- both the general counsel and the</b></p> <p>14 <b>director?</b></p> <p>15 A. Yes.</p> <p>16 <b>Q. Okay. And you've not been informed of</b></p> <p>17 <b>incidents of -- of findings of ineffective</b></p> <p>18 <b>assistance of counsel by attorneys in your office</b></p> <p>19 <b>for anything happening prior to your tenure?</b></p> <p>20 A. No final determinations on that have</p> <p>21 come to mind, no.</p> <p>22 <b>Q. And the ordinary mechanism for -- for</b></p> <p>23 <b>determination would be a post-conviction relief</b></p> <p>24 <b>proceeding?</b></p> <p>25 A. Right. I believe so. I mean, I -- I</p>	<p style="text-align: right;">Page 140</p> <p>1 not --</p> <p>2 <b>Q. You're not aware, though?</b></p> <p>3 A. I'm not aware.</p> <p>4 <b>Q. Okay. Prior to your tenure I guess</b></p> <p>5 <b>with the public defender system, I guess as general</b></p> <p>6 <b>counsel, what was your -- you were with the</b></p> <p>7 <b>governor's office? I believe you said that --</b></p> <p>8 A. The -- the immediate job I had prior to</p> <p>9 joining general counsel was a tenure at the State</p> <p>10 Emergency Management Agency.</p> <p>11 <b>Q. Okay. I've got that here. And then</b></p> <p>12 <b>prior to that you were with the office of the</b></p> <p>13 <b>governor, deputy general counsel?</b></p> <p>14 A. Yes.</p> <p>15 <b>Q. And a -- a brief stint as -- or you</b></p> <p>16 <b>said including as deputy chief of staff?</b></p> <p>17 A. Yes. Brief.</p> <p>18 <b>Q. When -- when did you begin in your --</b></p> <p>19 <b>your work with the office of the governor in any</b></p> <p>20 <b>role?</b></p> <p>21 A. It lasted for a period between two to</p> <p>22 three years. The start date.</p> <p>23 <b>Q. Year, you can put a year.</b></p> <p>24 A. I can back into it. I think it was '12</p> <p>25 to '14, 2012 to 12 -- '14 generally. Generally.</p>

35 (Pages 137 to 140)

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

Case 2:17-cv-04057-NKL Document 153-8 Filed 02/09/18 Page 36 of 77

<p style="text-align: right;">Page 141</p> <p>1 <b>Q. Okay. And prior to that what did you</b>  2 <b>do?</b>  3 A. I worked for a period of time at  4 Department of Natural Resources, then the Department  5 of Economic Development.  6 <b>Q. So natural resources, then prior to</b>  7 <b>that economic development?</b>  8 A. Yes.  9 <b>Q. And prior to that what did you do?</b>  10 A. I was new to the state at that time. I  11 worked previously as the deputy commissioner for  12 criminal justice programs, public safety in the  13 state of New York.  14 <b>Q. Okay. And did -- and that -- what did</b>  15 <b>you do in that capacity?</b>  16 A. I ran statewide programs on juvenile  17 justice, reentry, crimes against revenue.  18 <b>Q. Crimes against what?</b>  19 A. Revenue.  20 <b>Q. Tax evasion?</b>  21 A. You know, frauding workman's comp.  22 <b>Q. Okay.</b>  23 A. Not paying your taxes, a restaurant not  24 paying taxes, that stuff.  25 <b>Q. Okay. I understand. Anything else?</b></p>	<p style="text-align: right;">Page 143</p> <p>1 <b>Q. Okay. And how long were you doing</b>  2 <b>that?</b>  3 A. I think over a period of between two  4 and -- two and three years.  5 <b>Q. Okay. That's what I was getting back.</b>  6 <b>Sorry to walk you back all the way back like that.</b>  7 A. And I don't know the precise time  8 period for that.  9 <b>Q. And I'm not going to hold you to it.</b>  10 A. Yeah.  11 <b>Q. We'll ask you for your resumé if we</b>  12 <b>need it.</b>  13 A. Yeah.  14 <b>Q. You mentioned that -- I guess you have</b>  15 <b>did you say quarterly meeting of the commission that</b>  16 <b>you attend?</b>  17 A. Yes.  18 <b>Q. You report --</b>  19 A. We calendar out four quarterly meetings  20 a year. In addition, as the need arises we'll have  21 phone calls to discuss matters that require  22 discussing.  23 <b>Q. And are those proceedings recorded,</b>  24 <b>taken down, minutes?</b>  25 A. I don't know -- minutes, yes.</p>
<p style="text-align: right;">Page 142</p> <p>1 A. Anything else as to?  2 <b>Q. In that position.</b>  3 A. Brief the governor and the deputy  4 secretary for public safety on public safety issues.  5 Was a counselor on efforts to combat crime in New  6 York State and administration of general programs to  7 assist localities in combatting violent crime.  8 <b>Q. And prior to that what did you do?</b>  9 A. I -- I worked as an attorney for the  10 New York State general assembly in the majority  11 caucus on the codes committee.  12 <b>Q. And prior to that?</b>  13 A. You're killing me here.  14 <b>Q. I'm trying to get back to law school</b>  15 <b>here. I guess what I'm getting at, is your tenure</b>  16 <b>with the public defender's office your first work</b>  17 <b>experience in the defense of criminal defendants?</b>  18 A. You just had to go back one job prior  19 and I was a public defender.  20 <b>Q. Okay.</b>  21 A. Before joining the New York State  22 general assembly in the codes committee, I worked  23 for the Albany County Public Defender's Office, and  24 I also represented clients, criminal defense clients  25 in private capacity. You were allowed to do both.</p>	<p style="text-align: right;">Page 144</p> <p>1 <b>Q. Okay. So minutes for the formal</b>  2 <b>meetings?</b>  3 A. Yes. Required by the -- the open  4 meetings law, also known as the sunshine law.  5 <b>Q. Okay. And -- and the phone meetings</b>  6 <b>you have, are those formal meetings for which</b>  7 <b>document --</b>  8 A. When you say formal, I don't know what  9 you're talking about.  10 <b>Q. Well, is there a process whereby the</b>  11 <b>commission can meet by telephone rather than in</b>  12 <b>person and carry out its business?</b>  13 A. Yes. Yes.  14 <b>Q. And those would also be subject to the</b>  15 <b>same sunshine law requirements for documentation?</b>  16 A. Yes, appropriate notice is given, etc.  17 (Court reporter interruption.)  18 MR. QUINLAN: Requirements for  19 documentation.  20 THE WITNESS: And I said yes,  21 appropriate notice is required, etc.  22 MR. QUINLAN: You have two  23 Northeasterners here going at it. We're very fast  24 talkers.  25 THE WITNESS: I'm making efforts to</p>

36 (Pages 141 to 144)



<p style="text-align: right;">Page 145</p> <p>1 slow down.</p> <p>2 <b>Q. (By Mr. Quinlan) You mention -- I just</b></p> <p>3 <b>-- some questions I have in my margins from my</b></p> <p>4 <b>notes. You indicated that -- that \$3.74 million was</b></p> <p>5 <b>appropriated. I don't have in my notes what year it</b></p> <p>6 <b>was.</b></p> <p>7 <b>I'm not sure that -- I mean, the record</b></p> <p>8 <b>will -- will speak for itself on that. That was</b></p> <p>9 <b>first vetoed by the governor and then put back into</b></p> <p>10 <b>the budget by veto override, and then it was again</b></p> <p>11 <b>withheld by the governor?</b></p> <p>12 A. Yeah, I just correct you. It's</p> <p>13 3.47 million. Not 74 million.</p> <p>14 <b>Q. 47 million, okay.</b></p> <p>15 A. Yes. Yeah, that's my correction. And</p> <p>16 I believe it was two budget cycles ago.</p> <p>17 <b>Q. Okay.</b></p> <p>18 A. So whether you want to use calendar</p> <p>19 year or fiscal year, it was two years ago.</p> <p>20 <b>Q. That's fine. But my question is do you</b></p> <p>21 <b>know why the money was ultimately withheld?</b></p> <p>22 A. Well, I know insofar as to state why</p> <p>23 money was withheld generally, and that's because</p> <p>24 according to the governor, Nixon, revenues were not</p> <p>25 coming in as projected. As it relates to the</p>	<p style="text-align: right;">Page 147</p> <p>1 authority --</p> <p>2 MR. QUINLAN: Okay.</p> <p>3 MS. SHIPMA: -- for the governor to do</p> <p>4 that withhold. So any questions regarding his</p> <p>5 understanding --</p> <p>6 MR. QUINLAN: Okay.</p> <p>7 MS. SHIPMA: -- of that I'm going to</p> <p>8 object and instruct him not to answer.</p> <p>9 MR. QUINLAN: No, fair enough. And I'm</p> <p>10 not -- and I'm not trying to invade anything.</p> <p>11 <b>Q. (By Mr. Quinlan) So it's your</b></p> <p>12 <b>understanding that the -- that what the governor</b></p> <p>13 <b>said, what the governor's position was was that he</b></p> <p>14 <b>had constitutional authority to make a withholding</b></p> <p>15 <b>because revenues did not -- were not sufficient to</b></p> <p>16 <b>meet appropriations?</b></p> <p>17 A. I'm trying to state what I believe he</p> <p>18 thought.</p> <p>19 <b>Q. Exactly. That's what I'm asking. I'm</b></p> <p>20 <b>not asking to invade --</b></p> <p>21 A. Yeah.</p> <p>22 <b>Q. -- anything that's -- would prejudice</b></p> <p>23 <b>your litigation. Is that correct then?</b></p> <p>24 A. That -- limited to that, yes.</p> <p>25 <b>Q. Yeah, okay. And again, you don't --</b></p>
<p style="text-align: right;">Page 146</p> <p>1 specific withhold, pertaining to the public defender</p> <p>2 system, I can't say.</p> <p>3 <b>Q. So you've been in the general counsel's</b></p> <p>4 <b>office of the governor. What is your understanding</b></p> <p>5 <b>of that, the -- the broader withholding you refer</b></p> <p>6 <b>to? What's the origin of that?</b></p> <p>7 A. Revenue.</p> <p>8 <b>Q. Right. By what authority does the</b></p> <p>9 <b>governor have ability to do that?</b></p> <p>10 MS. SHIPMA: You know, I'm going to</p> <p>11 object. This is a subject matter of current pending</p> <p>12 litigation --</p> <p>13 MR. QUINLAN: Okay.</p> <p>14 MS. SHIPMA: -- to which he is a party</p> <p>15 and so I don't want him answering. I'm going to</p> <p>16 instruct him not to answer questions regarding this</p> <p>17 matter.</p> <p>18 MR. QUINLAN: Sure. And any that you</p> <p>19 find, we can do that. I'm just trying to get some</p> <p>20 background.</p> <p>21 MS. SHIPMA: This is one. Do not</p> <p>22 believe there is -- we do not believe there is --</p> <p>23 (Court reporter interruption.)</p> <p>24 MS. SHIPMA: Yes, our contention in the</p> <p>25 litigation is there is not constitutional</p>	<p style="text-align: right;">Page 148</p> <p>1 <b>you don't have any specific information about why</b></p> <p>2 <b>\$3.47 million appropriation for the public defender</b></p> <p>3 <b>system was among that?</b></p> <p>4 MS. SHIPMA: I'm going to object to</p> <p>5 that question. That's the subject matter of our</p> <p>6 litigation. Michael, I'm going to instruct you not</p> <p>7 to answer.</p> <p>8 THE WITNESS: Okay.</p> <p>9 <b>Q. (By Mr. Quinlan) You going to follow</b></p> <p>10 <b>your attorney's instruction?</b></p> <p>11 A. Yes.</p> <p>12 <b>Q. Okay. Did I understand your testimony</b></p> <p>13 <b>correctly that your requested appropriation -- or I</b></p> <p>14 <b>should say the appropriation made in the current</b></p> <p>15 <b>fiscal year is fully funded, it's not been withheld?</b></p> <p>16 A. Can I just take a step back so I</p> <p>17 understand your question?</p> <p>18 <b>Q. Sure.</b></p> <p>19 A. You're talking about the budget that</p> <p>20 was pulled together as part of the last legislative</p> <p>21 budget cycle and is now in operation for the current</p> <p>22 fiscal year?</p> <p>23 <b>Q. Yes.</b></p> <p>24 A. All the money that we were appropriate</p> <p>25 -- appropriated that can be expended at this point</p>

37 (Pages 145 to 148)

<p style="text-align: right;">Page 149</p> <p>1 in the fiscal year to my understanding has been 2 expended to our department.</p> <p>3 <b>Q. Okay. And that's your overall budget?</b></p> <p>4 A. Yeah, I don't know there's a difference 5 between them.</p> <p>6 <b>Q. I -- you know, I'm asking you for my 7 benefit because I have Code 49 program in my note.</b></p> <p>8 A. Okay.</p> <p>9 <b>Q. But I think my question was broader 10 than that. And that was the question you answered, 11 right?</b></p> <p>12 A. Yes.</p> <p>13 <b>Q. So you're -- you're basically -- I 14 understand your answer, okay. You mentioned that 15 the operational control over the public defenders, 16 your office, is held by the commission.</b></p> <p>17 A. No.</p> <p>18 <b>Q. Okay. You're -- my note -- and correct 19 -- and my notes say that -- that Missouri public 20 defender system is an independent department within 21 the judicial branch and it's only operationally 22 controlled by the commission. Is that --</b></p> <p>23 A. By the department. By the department.</p> <p>24 <b>Q. The department.</b></p> <p>25 A. Not the commission.</p>	<p style="text-align: right;">Page 151</p> <p>1 A. Yes, I think I have say. I think I 2 drive that decision. But as a matter of practice, 3 as a matter of courtesy, I will share and get their 4 approval or I have shared and got their approval in 5 establishing salaries for what I would describe as 6 senior staff, deputy directors, trial division 7 directors.</p> <p>8 <b>Q. And you also have -- so just so I 9 understand, you -- you basically are the focus of 10 the operational control department?</b></p> <p>11 A. I would say that's an accurate 12 statement.</p> <p>13 <b>Q. Okay. And so you are the one 14 ultimately responsible for the pay scale for your 15 APDs?</b></p> <p>16 A. I think so. I think -- yes, I 17 think that's -- I think that's -- I think we need -- 18 there's some nuance there that I just can't 19 willy-nilly make stuff up. I think we borrow --</p> <p>20 <b>Q. Don't I know that from my position.</b></p> <p>21 A. We borrow I think -- I don't know 22 whether it's compulsory or not a structure that OA 23 creates. I don't know whether that's a guideline as 24 I sit here or whether that's mandatory, but that's 25 what we utilize.</p>
<p style="text-align: right;">Page 150</p> <p>1 <b>Q. Okay.</b></p> <p>2 A. For instance, if I wanted to move an 3 FTE from one office to the next, that's an 4 operational decision. I take that to be an 5 operational decision. That's not one that I would 6 require commission approval.</p> <p>7 <b>Q. I understand. So -- and the -- what is 8 then the authority of the commission?</b></p> <p>9 A. So it's statutory. There's a number of 10 enumerated responsibilities that they have. The one 11 in addition to hiring me and firing, terminating the 12 director, to approve the budget request that goes to 13 the legislature and the governor.</p> <p>14 To do some advocacy for the mission of 15 the public defender system, and I believe there's 16 something in there too about the approval of a pay 17 structure for our org. chart.</p> <p>18 <b>Q. Okay. But your salary is fixed by 19 statute?</b></p> <p>20 A. Yes. I believe it says not more than 21 what a judge makes. I don't remember whether it's 22 an associate circuit judge or a circuit judge.</p> <p>23 <b>Q. But other executives in your department 24 that you hire, they have different -- they can be 25 paid what you and the board determine, commission?</b></p>	<p style="text-align: right;">Page 152</p> <p>1 MS. SHIPMA: Kathy Lear can speak --</p> <p>2 A. Yeah.</p> <p>3 MR. QUINLAN: Understood.</p> <p>4 <b>Q. (By Mr. Quinlan) What is the 5 authority, if any, that the Supreme Court has over 6 your office as you're in the judicial department, 7 and my understanding is constitutionally the Supreme 8 Court is the supreme head of the judicial 9 department?</b></p> <p>10 A. Counselor, that's unclear to me. I've 11 never been able to reconcile what it means to be in 12 the -- in the judicial branch but at the same time 13 be independent, the same end achieved by us being a 14 stand-alone. I don't know the answer to that.</p> <p>15 <b>Q. Okay. I just want to confirm that you 16 set the salaries for your APDs and your support 17 staff and your organization and -- but you don't 18 have budgetary responsibility for funding their -- 19 their fringe benefits?</b></p> <p>20 A. So if I understand your -- your 21 question, their fringe benefits are not paid for out 22 of my operating budget.</p> <p>23 <b>Q. That was my question. Okay.</b></p> <p>24 A. And I believe the same is true for all 25 departments, I believe.</p>

38 (Pages 149 to 152)

<p style="text-align: right;">Page 153</p> <p>1 <b>Q. I don't know. There was some</b>  2 <b>discussion about -- I don't remember whether it was</b>  3 <b>the district offices or the system as a whole, but</b>  4 <b>-- and I'm just going to ask the question. Are</b>  5 <b>there restrictions on the ability of your department</b>  6 <b>to raise funds from sources other than an</b>  7 <b>appropriation by the legislature?</b>  8 A. I believe there is. Kathy Lear would  9 be expert to answer that question.  10 <b>Q. So would that -- does that rule out to</b>  11 <b>your understanding private fundraising to fund</b>  12 <b>different programs?</b>  13 A. I believe it does.  14 <b>Q. Okay.</b>  15 A. I know that -- I'm mindful that if  16 there's grant opportunities out there, and there  17 seldom are, that we're somewhat limited as to what  18 we can bring in from outside sources, but again  19 Kathy Lear would be expert on that.  20 <b>Q. But you -- but you are allowed to</b>  21 <b>collect fees from clients?</b>  22 A. Yes.  23 <b>Q. Okay. You have a system for assigning</b>  24 <b>a value to a representation and -- and charging your</b>  25 <b>client for that?</b></p>	<p style="text-align: right;">Page 155</p> <p>1 <b>the counties?</b>  2 A. Yeah. Perhaps I should've provided  3 more nuance to that. In the cities I believe -- I  4 think those are provided out of our budget if I'm  5 not mistaken. I'd refer you to Kathy Lear on that.  6 <b>Q. And I have that in my notes to talk to</b>  7 <b>Kathy Lear about. And did I understand you</b>  8 <b>correctly that the number of FTEs that you have is</b>  9 <b>restricted by the legislature?</b>  10 A. Yes.  11 <b>Q. So -- and you mention that you had</b>  12 <b>received an authorization to hire -- to add ten FTEs</b>  13 <b>recently?</b>  14 A. Two budget cycles ago in the same  15 budget cycle that had that 3.47 million, I believe  16 in that budget cycle we were authorized as part of  17 that 3.47 million for ten additional FTEs. We  18 didn't have the money to -- to hire those positions,  19 but because it was passed by the legislature that  20 becomes part of your core funding for subsequent  21 years.  22 <b>Q. Okay. So that has been continued, that</b>  23 <b>authorization has continued subsequently?</b>  24 A. Yes.  25 <b>Q. And you say you haven't filled all</b></p>
<p style="text-align: right;">Page 154</p> <p>1 A. We have -- yes, I believe the amounts  2 are promulgated by rule if I'm not mistaken. I  3 didn't set them. They're -- they're assessed as a  4 fee to clients, yes.  5 <b>Q. And do you know what the destination is</b>  6 <b>of those fees when they're paid? Do they come in to</b>  7 <b>your budget?</b>  8 A. Kathy Lear would be expert on that.  9 <b>Q. All right. And I presume you have a</b>  10 <b>system in place to -- for billing and collections</b>  11 <b>and keeping track of how successful you are in</b>  12 <b>collecting those fees?</b>  13 A. I -- to the extent that we are  14 successful, I have general understanding of -- of  15 what comes in the door, how it comes in the door,  16 yes, but Kathy Lear would know more.  17 <b>Q. And Kathy would be --</b>  18 MS. SHIPMA: Or Joel Elmer would  19 also --  20 MR. QUINLAN: Okay.  21 MS. SHIPMA: -- be able to speak to  22 that as well.  23 <b>Q. (By Mr. Quinlan) And as I understand</b>  24 <b>it, the office space occupied by your defenders in</b>  25 <b>the counties and the district offices is provided by</b></p>	<p style="text-align: right;">Page 156</p> <p>1 <b>those?</b>  2 A. That is correct.  3 <b>Q. Have you requested since then</b>  4 <b>additional FTEs for your department through the</b>  5 <b>legislative process?</b>  6 A. We have submitted our -- our two  7 thousand -- fiscal year 2019 budget proposal, which  8 was approved by the Public Defender Commission at  9 our September Public Defender Commission meeting.  10 That has now been provided to the legislature, the  11 governor's office, and additionally I believe the  12 Supreme Court.  13 <b>Q. And does that provide for more FTEs</b>  14 <b>beyond the ten of the prior --</b>  15 A. Yes.  16 <b>Q. How many?</b>  17 A. I don't know without looking at it.  18 <b>Q. More than ten?</b>  19 A. Yes.  20 <b>Q. More than 20?</b>  21 A. Keep going.  22 <b>Q. More than 300?</b>  23 A. That would be the number that I would  24 give you.  25 <b>Q. Okay. So -- so you're asking for what</b></p>

<p style="text-align: right;">Page 157</p> <p>1 <b>you say you need, you expect that that will be</b>  2 <b>trimmed back?</b>  3 A. I asked for what RubinBrown tells me I  4 need based on the thresholds that they pulled  5 together using evidence-based data.  6 <b>Q. And that's the RubinBrown report that's</b>  7 <b>specific to Missouri that's attached to the</b>  8 <b>complaint in this case?</b>  9 A. Yes.  10 <b>Q. And my recollection is -- and I confess</b>  11 <b>I -- I haven't studied it meticulously. That was</b>  12 <b>based in part on anecdotal information supplied by</b>  13 <b>public defenders as well as some limited initial</b>  14 <b>data from a new hour -- hour keeping system?</b>  15 A. I think that's partially correct. I'd  16 refer you to Joel Elmer, but I can speak to this.  17 This predated me, but I --  18 <b>Q. And exactness is not what I'm looking</b>  19 <b>for. Because what I'm asking is my recollection of</b>  20 <b>that report was that the -- the -- there was a</b>  21 <b>timekeeper system that was recently put in place?</b>  22 A. Yes.  23 <b>Q. Do you know when that was?</b>  24 A. It was --  25 <b>Q. 2015?</b></p>	<p style="text-align: right;">Page 159</p> <p>1 <b>basis or is that systemwide?</b>  2 A. To the extent -- I don't understand  3 your question. There is not differing standards I  4 don't think.  5 <b>Q. Well, I think you mentioned something</b>  6 <b>about a visit is expected within first seven days of</b>  7 <b>appointment and then every thirty days thereafter.</b>  8 <b>Is that -- is that criteria one that is -- that is</b>  9 <b>promulgated systemwide?</b>  10 A. I believe that's a systemwide criteria.  11 <b>Q. Okay.</b>  12 A. I'd refer you to Joel Elmer.  13 <b>Q. Okay. Mentioned that -- I don't</b>  14 <b>remember whether this is a broader historical</b>  15 <b>perspective or just the last year, you said one</b>  16 <b>percent of all cases go to trial. So that means</b>  17 <b>99 percent plead or are otherwise disposed of?</b>  18 A. Can I take the first part of your  19 question?  20 <b>Q. Yes.</b>  21 A. Yes. It's my understanding that for  22 the last two years, whether fiscal or calendar, that  23 the -- the data that we recorded and was  24 communicated to me, that in each of those years we  25 only went to trial on one percent of our cases. And</p>
<p style="text-align: right;">Page 158</p> <p>1 A. It preceded -- since the report came  2 out in '14, it preceded that. So I would say  3 sometime between 2012 and 2014.  4 <b>Q. Okay. And has there been any</b>  5 <b>subsequent data analysis based on the actual</b>  6 <b>experience and history recorded from your mature use</b>  7 <b>of your hour -- hourly keeping system?</b>  8 A. I'd refer you to Joel on that one.  9 <b>Q. Okay. You testified that one of the</b>  10 <b>criteria for evaluating assistant public defenders</b>  11 <b>that's an objective criteria is client contact?</b>  12 A. Yes.  13 <b>Q. So do you have a -- a data collection</b>  14 <b>or recordkeeping system that -- that captures those</b>  15 <b>client contacts for the purposes of your evaluation?</b>  16 A. Yeah, I believe we do. I think that's  17 captured in different ways. For instance, a -- to  18 have a local office to measure that, you can choose  19 to look at a -- some sort of database or pull a  20 file. So you can do it manually or electronically.  21 I think Joel would be able to give you more  22 information on that.  23 <b>Q. Okay. And in that connection the</b>  24 <b>client contact criteria, is that -- is that</b>  25 <b>something that is promulgated on a district office</b></p>	<p style="text-align: right;">Page 160</p> <p>1 to the second part of your question, the 99 percent  2 would also include such things like dismissals.  3 <b>Q. Exactly. Okay. Nolle pros and things</b>  4 <b>like that? Yeah. You have to answer out loud.</b>  5 A. My first -- yes.  6 <b>Q. And when you use the term caseload in</b>  7 <b>your testimony, you're referring to that phrase as</b>  8 <b>it's used in the RubinBrown report?</b>  9 A. No.  10 <b>Q. Do you have a different understanding</b>  11 <b>of caseload than is in the RubinBrown report?</b>  12 A. Yeah. There's -- there's two different  13 words that I use. Mr. Mermelstein and Mr. Elmer may  14 differ. I use caseload and workload. Caseload  15 would be raw number of cases without taking into  16 account the complexity of the case or the severity  17 of that case, whether it's an A, a B, a felony, or  18 otherwise.  19 Workload would be a different number.  20 Workload would take those things into account  21 because as part of the RubinBrown process they  22 assigned higher thresholds or more hours required to  23 work on cases of greater severity. For instance, an  24 A -- according to RubinBrown an A felony would  25 require more hours worked generally than a C felony.</p>

40 (Pages 157 to 160)

<p style="text-align: right;">Page 161</p> <p>1 <b>Q. Okay. And I'm -- and I'm just not</b>  2 <b>remembering. My notes show that you said caseloads</b>  3 <b>are most critical concern. Did I --</b>  4 A. Yeah.  5 <b>Q. Did I write that down correctly?</b>  6 A. I think -- I think you did because I  7 think that's what I said. If I could nuance that by  8 saying I'm using caseload as an umbrella term there  9 to include both caseload and workload. The number  10 and severity of -- and seriousness of the cases that  11 are assigned to a given lawyer.  12 <b>Q. And -- and I gather that the assignment</b>  13 <b>of cases within your office is -- is balanced based</b>  14 <b>on severity so that you may have some lawyers that</b>  15 <b>have -- with less severe cases, who would have more</b>  16 <b>or less severe cases, whereas other lawyers with</b>  17 <b>more severe cases would have fewer cases?</b>  18 A. That's going to vary by office. There  19 are other things at play. For instance, if it's a  20 rural area, and they have several attorneys but  21 those attorneys handle exclusively a county, they  22 may get both severe --  23 <b>Q. Right.</b>  24 A. -- and less severe cases. So it -- it  25 would depend on the jurisdiction.</p>	<p style="text-align: right;">Page 163</p> <p>1 <b>attorney's head to the -- the management -- office</b>  2 <b>management, is there any way of capturing those</b>  3 <b>complaints?</b>  4 A. To the former, I think the  5 determination is that the utility of recording it  6 for the sake of recording it is outweighed by the  7 time that it takes to do so. So the latter, if it  8 comes -- the call comes in to our ombudsman  9 program --  10 <b>Q. Which is centrally located?</b>  11 A. Which is centrally located. It is part  12 of practice or procedure that we use to record it.  13 <b>Q. Okay. What you're saying, though --</b>  14 <b>let me make sure I understand. If I'm a lawyer and</b>  15 <b>I get a complaint from a client, I want to make some</b>  16 <b>documentation that satisfied that complaint, do you</b>  17 <b>know where that happens at the line level in your</b>  18 <b>offices?</b>  19 A. I don't -- I don't know that it does.  20 <b>Q. Okay. One way or the other?</b>  21 A. I don't know that it does one way or  22 the other.  23 <b>Q. Okay.</b>  24 A. I would imagine it varies by lawyer.  25 MR. QUINLAN: All right. I went</p>
<p style="text-align: right;">Page 162</p> <p>1 <b>Q. Okay. We talked about the ombudsman</b>  2 <b>complaints, and I think you mentioned that there's a</b>  3 <b>database for tracking complaints?</b>  4 A. Yes. If the complaint comes in through  5 ordinary channels and not the phone is picked up by  6 some other secretary and rerouted in an errant way,  7 formal process is to record the -- or input the data  8 concerning that call into some sort of database.  9 <b>Q. Okay. So -- and that's a computerized</b>  10 <b>system?</b>  11 A. Yes. But that would only be calls that  12 come to our office. That would not include calls by  13 a client complaining to the local office.  14 <b>Q. Or to their lawyer?</b>  15 A. Or to their lawyer.  16 <b>Q. Or to their lawyer. Do you have a</b>  17 <b>mechanism for capturing the incidents of those kinds</b>  18 <b>of complaints?</b>  19 A. I don't believe we do.  20 <b>Q. Okay. Even -- just practically</b>  21 <b>speaking, I can understand as a practicing attorney</b>  22 <b>you get a complaint from a client, you deal with it,</b>  23 <b>you're not going to doc -- necessarily document that</b>  24 <b>unless it's a letter or something like that, but</b>  25 <b>when the complaint comes above so to speak over the</b></p>	<p style="text-align: right;">Page 164</p> <p>1 through my notes and I wrote that \$3.47 million  2 number down wrong every time. I'm getting close  3 here. If you don't mind, we take a break. I'll  4 check with Steven and see if we have anything more  5 and wrap it up.  6 THE WITNESS: That's fine with me.  7 VIDEOGRAPHER: We're going off the  8 record at approximately 12:08 p.m.  9 (WHEREIN, a recess was taken.)  10 VIDEOGRAPHER: We're back on the record  11 at approximately 12:16 p.m.  12 MR. QUINLAN: Thank you for the break  13 to consider that. Having done so, we have no  14 further questions.  15 EXAMINATION  16 QUESTIONS BY MS. SHIPMA:  17 <b>Q. I do have a few questions. Okay.</b>  18 <b>Michael, I'll try not to prolong this any more than</b>  19 <b>necessary. Do you have any concept of on average</b>  20 <b>the cost for the public defender system to defend a</b>  21 <b>case?</b>  22 A. I do have a concept --  23 <b>Q. And what is that?</b>  24 A. -- on average. I believe, and I'd  25 refer you to Kathy Lear for a more precise answer,</p>

41 (Pages 161 to 164)



Page 165	Page 167
<p>1 but in looking at trial division cases, when you 2 take the number of cases and do some division as it 3 relates to the total amount budgeted for those trial 4 division cases, it comes out to be somewhere between 5 350 and 365 to the best of my recollection per case, 6 and that includes some overhead. 7 I think -- I believe it includes 8 litigation expenses as well. But I think there's 9 certain overhead that's not included, but that's my 10 understanding. Somewhere between 350 and \$365 per 11 case on average. 12 <b>Q. And does that include the APD salary or</b> 13 <b>the attorney's salary?</b> 14 A. I believe it does. I believe it does, 15 but I'd refer you to Kathy Lear for a more precise 16 answer. 17 <b>Q. And this -- do you -- are you aware of</b> 18 <b>the amount of the fees that are paid -- the fees</b> 19 <b>that are paid to contract counsel for specific types</b> 20 <b>of cases, do you know what the dollar figure is for</b> 21 <b>a misdemeanor, for instance?</b> 22 A. I'd refer you to Joel Elmer. 23 <b>Q. Okay. There were some questions about</b> 24 <b>the various different reports that have been done of</b> 25 <b>the public defender system. Are you aware of any</b></p>	<p>1 A. Not as to each specific position. I 2 will -- I can say that the comptroller and the HR 3 department has informed me that last year our 4 turnover rate was around 17 percent for the year, 5 and that that has increased and is projected to be 6 upwards of 25 percent for this year. 7 We do do departure interviews, exit 8 interviews with willing ex-employees, and the common 9 reasons for leaving are that in the opinion of the 10 departing attorney they're not able to do what they 11 need to do for their client and are either leaving 12 because of fear that their law license is in 13 jeopardy or because there is some guilt associated 14 with not being able to do what they need to do for 15 their client. The other reasons that are most 16 typical are salary. 17 <b>Q. Not enough salary?</b> 18 A. Salaries are low. 19 <b>Q. Your duties as director of the public</b> 20 <b>defender system are set by statute, correct?</b> 21 A. Well, there are duties above and beyond 22 statute, but there are specific duties that I must 23 do, I believe. 24 <b>Q. Okay. And are you -- I'm not asking</b> 25 <b>you to quote the statute, but are you familiar with</b></p>
Page 166	Page 168
<p>1 <b>findings in any of those reports that talk about</b> 2 <b>fundamental problems with the system other than not</b> 3 <b>enough resources?</b> 4 A. That are not tied to resources? 5 <b>Q. Right.</b> 6 A. I am not. 7 <b>Q. You referred to the fact that we --</b> 8 <b>that MSPD was given ten additional FTEs a couple of</b> 9 <b>budget cycles ago and that those haven't been</b> 10 <b>filled. What's the reason for not having filled</b> 11 <b>those?</b> 12 A. Some of them have been filled. Not all 13 of them. The offices that I would provide one of 14 those additional FTEs to are unable at the present 15 day to fulfill their existing FTEs. So I'm holding 16 back on assigning them as of yet. 17 <b>Q. So there are vacancies in FTEs, not</b> 18 <b>just those ten additional?</b> 19 A. Correct. 20 <b>Q. And what -- do you know, do you have a</b> 21 <b>concept of what -- the reason for those vacancies?</b> 22 A. That there's no person occupying the 23 position. 24 <b>Q. Do you know why the position is not</b> 25 <b>filled?</b></p>	<p>1 <b>those duties that the statute sets out in general?</b> 2 A. In general, yes. 3 <b>Q. Can you tell me what those are?</b> 4 A. Yeah. I have statutory obligation -- 5 again, paraphrasing that -- specifics here to make 6 sure that people who are charged with a criminal 7 offense and who are otherwise unable to retain a 8 lawyer receive competent representation by a member 9 of MSPD or an MSPD attorney to ensure due process 10 and -- under the law. 11 (Court reporter interruption.) 12 A. I'm sorry. Due process under the law. 13 <b>Q. (By Ms. Shipma) So it's not only the</b> 14 <b>judge's duty to worry about whether defendants are</b> 15 <b>getting -- indigent accused are getting competent</b> 16 <b>representation, that's something that you're tasked</b> 17 <b>with as well; is that correct?</b> 18 A. Yes, I would say that that's my primary 19 purpose. 20 MS. SHIPMA: Thank you. I don't have 21 any further questions. 22 MR. WILLIAMSON: None for me. 23 MR. QUINLAN: Just have a couple 24 questions about the -- the FTEs. 25 FURTHER EXAMINATION</p>

42 (Pages 165 to 168)

<p style="text-align: right;">Page 169</p> <p>1 QUESTIONS BY MR. QUINLAN:</p> <p>2 <b>Q. Do you know how many of the ten -- do</b></p> <p>3 <b>you know how many of the ten authorized FTEs have</b></p> <p>4 <b>remained vacant, have not been utilized?</b></p> <p>5 A. I want to say -- I want to say four.</p> <p>6 <b>Q. And each of those four cases, does that</b></p> <p>7 <b>relate to an office in which you intended those to</b></p> <p>8 <b>go to offices which still have vacancies that</b></p> <p>9 <b>haven't been filled?</b></p> <p>10 A. Yes.</p> <p>11 <b>Q. So in other words, you have an office</b></p> <p>12 <b>that -- that has had one vacancy and you don't want</b></p> <p>13 <b>to -- you don't want to assign another FTE to that</b></p> <p>14 <b>office, there's just going to be a second vacancy in</b></p> <p>15 <b>that office?</b></p> <p>16 A. I don't see the utility in doing that,</p> <p>17 yes.</p> <p>18 <b>Q. Do you see utility in utilizing those</b></p> <p>19 <b>FTEs in venues or jurisdictions, offices, districts</b></p> <p>20 <b>where you can recruit attorneys and -- and filling</b></p> <p>21 <b>those?</b></p> <p>22 A. I do see utility, and there's a second</p> <p>23 obstacle. And the second obstacle is that next tier</p> <p>24 of offices that are in most need of an additional</p> <p>25 person are also those offices where they don't have</p>	<p style="text-align: right;">Page 171</p> <p>1 that's owned by a county and so we're currently in</p> <p>2 free space, and if we move to a different space it</p> <p>3 would not be free space and it would be a cost for</p> <p>4 the county.</p> <p>5 <b>Q. Well, in those cases where you don't</b></p> <p>6 <b>even have -- not only do you -- why don't you just</b></p> <p>7 <b>move that FTE to one -- to another office in the</b></p> <p>8 <b>state some -- because according to Exhibit 4 all of</b></p> <p>9 <b>your offices have workloads or caseloads multiple</b></p> <p>10 <b>levels beyond a hundred percent?</b></p> <p>11 A. And I very well may do that. The</p> <p>12 beginning of the fiscal year, as you alluded to</p> <p>13 earlier, was July 1. We're not too far into the</p> <p>14 fiscal year and I've started off by posting in those</p> <p>15 offices that were both high need, had the room, and</p> <p>16 was able to recruit.</p> <p>17 I'm now at the point of having to make</p> <p>18 a decision to utilize those positions</p> <p>19 notwithstanding they may ultimately go to -- to an</p> <p>20 office that's not among the top four in need, but as</p> <p>21 you pointed out, all the offices have a need for</p> <p>22 those positions.</p> <p>23 <b>Q. And as far as the desert areas if you</b></p> <p>24 <b>will or the other -- other offices where you're</b></p> <p>25 <b>having difficulty recruiting, you mentioned that you</b></p>
<p style="text-align: right;">Page 170</p> <p>1 at least space to have another person in them.</p> <p>2 So they would -- so the high-need</p> <p>3 offices would either fall into one of the two</p> <p>4 categories, either they're unable to recruit or</p> <p>5 they're able to recruit, but there's no room in the</p> <p>6 office.</p> <p>7 <b>Q. And -- and in those offices where you</b></p> <p>8 <b>lack space, have you -- have you made inquiry of the</b></p> <p>9 <b>local county to obtain that space?</b></p> <p>10 A. Yeah, it's both the responsibility of</p> <p>11 the local district defender as well as Kathy Lear,</p> <p>12 who is the point of contact with the localities</p> <p>13 regarding facilities.</p> <p>14 <b>Q. So have they categorically refused to</b></p> <p>15 <b>give you additional space?</b></p> <p>16 A. In every instance I would not say that</p> <p>17 they have categorically refused. It's complicated</p> <p>18 from -- from a number of perspectives. One because</p> <p>19 most cases -- excuse me -- it's an office that</p> <p>20 handles a number of different counties, although the</p> <p>21 office would be located in a single county.</p> <p>22 Each one of the counties served would</p> <p>23 contribute a pro rata dollar amount to the cost of</p> <p>24 that office and would be involved in -- in the</p> <p>25 decision. A number of instances we're in space</p>	<p style="text-align: right;">Page 172</p> <p>1 <b>had a hundred percent flexibility in the use of your</b></p> <p>2 <b>funds with -- with approval by OA. Are you aware of</b></p> <p>3 <b>any incidents in which you haven't received approval</b></p> <p>4 <b>from OA for flexibility -- flexibility move you'd</b></p> <p>5 <b>like to make?</b></p> <p>6 A. I'm -- I'm not. That's a Kathy Lear</p> <p>7 question, and those decisions typically come at the</p> <p>8 end of the fiscal year as we spend down the lines.</p> <p>9 <b>Q. Would it not be within your flexibility</b></p> <p>10 <b>to offer salary incentives or other financial</b></p> <p>11 <b>incentives for -- for the desert offices in order to</b></p> <p>12 <b>get people to work there, something akin to like</b></p> <p>13 <b>hazardous duty pay or something like that? Do you</b></p> <p>14 <b>understand what I'm saying?</b></p> <p>15 A. We've had that conversation. There's</p> <p>16 some factors that go into that that create other</p> <p>17 inequities that I'm fearful of how they would</p> <p>18 resonate in the system and establishing precedent.</p> <p>19 The things that swirl around in my</p> <p>20 mind, Counselor, is it's my experience painting with</p> <p>21 a broad brush that although it's difficult to</p> <p>22 recruit to the rural areas, that when were</p> <p>23 successful a lot of times in recruiting to rural</p> <p>24 areas it's because someone has a tie, a family tie</p> <p>25 to that area, and they stay for much longer.</p>

43 (Pages 169 to 172)

<p style="text-align: right;">Page 173</p> <p>1 The reality in more the urban areas,  2 for instance, St. Louis, there's a dearth of -- of  3 lawyers available who are interested in applying,  4 but because of the proximity to other more  5 high-paying legal jobs, they leave more frequently.  6 So that -- that concept that you  7 mention has interested us. I don't know if it has  8 as I sit here a greater utility in the urban areas  9 or the rural areas given their different dynamics.  10 MR. QUINLAN: Okay. That's all I have.  11 Off the record.  12 VIDEOGRAPHER: We're going off record  13 at approximately 12:28 p.m.  14 COURT REPORTER: Signature of the  15 witness?  16 MS. SHIPMA: Yes.  17 COURT REPORTER: And then transcript  18 orders for all the depositions today? Full-size,  19 condensed, or E-tran?  20 MR. QUINLAN: Get an e-mail.  21 MR. WILLIAMSON: E-mail yes.  22 MS. SHIPMA: E-mail.  23 (WHEREIN, the deposition was concluded  24 at 12:28 p.m.)  25</p>	<p style="text-align: right;">Page 175</p> <p>1 MIDWEST LITIGATION SERVICES  2 October 9, 2017  3 Ms. Jacqueline Shipma  4 Missouri State Public Defender  5 Woodrail Center  6 1000 West Nifong  7 Building 7, Suite 100  8 Columbia, Missouri 65203  9  10 IN RE: SHONDEL CHURCH, et al. vs. STATE OF  11 MISSOURI, et al.  12  13 Dear Ms. Shipma,  14  15 Please find enclosed your copies of the deposition of  16 MICHAEL R. BARRETT taken on October 4, 2017 in the  17 above-referenced case. Also enclosed is the original  18 signature page and errata sheets.  19  20 Please have the witness read your copy of the  21 transcript, indicate any changes and/or corrections  22 desired on the errata sheets, and sign the signature  23 page before a notary public.  24  25 Please return the errata sheets and notarized  signature page within 30 days to our office at 711 N  11th Street, St. Louis, MO 63101 for filing.  Sincerely,  William L. DeVries, RDR/CRR  35446</p>
<p style="text-align: right;">Page 174</p> <p>1 CERTIFICATE OF REPORTER  2  3 I, William L. DeVries, a Certified  4 Court Reporter (MO), Certified Shorthand Reporter  5 (IL), Registered Diplomat Reporter, and a Certified  6 Realtime Reporter, do hereby certify that the  7 witness whose testimony appears in the foregoing  8 deposition was duly sworn by me pursuant to Section  9 492.010 RSMo; that the testimony of said witness was  10 taken by me to the best of my ability and thereafter  11 reduced to typewriting under my direction; that I am  12 neither counsel for, related to, nor employed by any  13 of the parties to the action in which this  14 deposition was taken, and further that I am not a  15 relative or employee of any attorney or counsel  16 employed by the parties thereto, nor financially or  17 otherwise interested in the outcome of the action.  18  19  20  21 _____  22 Certified Court Reporter  23 within and for the State of Missouri  24  25</p>	<p style="text-align: right;">Page 176</p> <p>1 ERRATA SHEET  2 Witness Name: MICHAEL R. BARRETT  3 Case Name: SHONDEL CHURCH, et al. vs. STATE OF  4 MISSOURI, et al.  5 Date Taken: OCTOBER 4, 2017  6  7 Page # _____ Line # _____  8 Should read: _____  9 Reason for change: _____  10  11 Page # _____ Line # _____  12 Should read: _____  13 Reason for change: _____  14  15 Page # _____ Line # _____  16 Should read: _____  17 Reason for change: _____  18  19 Page # _____ Line # _____  20 Should read: _____  21 Reason for change: _____  22  23 Page # _____ Line # _____  24 Should read: _____  25 Reason for change: _____  26  27 Page # _____ Line # _____  28 Should read: _____  29 Reason for change: _____  30  31 Page # _____ Line # _____  32 Should read: _____  33 Reason for change: _____  34  35 Page # _____ Line # _____  36 Should read: _____  37 Reason for change: _____  38  39 Page # _____ Line # _____  40 Should read: _____  41 Reason for change: _____  42  43 Page # _____ Line # _____  44 Should read: _____  45 Reason for change: _____  46  47 Page # _____ Line # _____  48 Should read: _____  49 Reason for change: _____  50  51 Page # _____ Line # _____  52 Should read: _____  53 Reason for change: _____  54  55 Page # _____ Line # _____  56 Should read: _____  57 Reason for change: _____  58  59 Page # _____ Line # _____  60 Should read: _____  61 Reason for change: _____  62  63 Page # _____ Line # _____  64 Should read: _____  65 Reason for change: _____  66  67 Page # _____ Line # _____  68 Should read: _____  69 Reason for change: _____  70  71 Page # _____ Line # _____  72 Should read: _____  73 Reason for change: _____  74  75 Page # _____ Line # _____  76 Should read: _____  77 Reason for change: _____  78  79 Page # _____ Line # _____  80 Should read: _____  81 Reason for change: _____  82  83 Page # _____ Line # _____  84 Should read: _____  85 Reason for change: _____  86  87 Page # _____ Line # _____  88 Should read: _____  89 Reason for change: _____  90  91 Page # _____ Line # _____  92 Should read: _____  93 Reason for change: _____  94  95 Page # _____ Line # _____  96 Should read: _____  97 Reason for change: _____  98  99 Page # _____ Line # _____  100 Should read: _____  Reason for change: _____</p>

44 (Pages 173 to 176)

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

Case 2:17-cv-04057-NKL Document 153-8 Filed 02/09/18 Page 45 of 77

1 STATE OF \_\_\_\_\_)  
2  
3 COUNTY OF \_\_\_\_\_)  
4  
5 I, MICHAEL R. BARRETT, do hereby certify:  
6 That I have read the foregoing deposition;  
7 That I have made such changes in form  
8 and/or substance to the within deposition as might  
9 be necessary to render the same true and correct;  
10 That having made such changes thereon, I  
11 hereby subscribe my name to the deposition.  
12 I declare under penalty of perjury that the  
13 foregoing is true and correct.  
14 Executed this \_\_\_\_ day of \_\_\_\_\_,  
15 20\_\_\_\_, at \_\_\_\_\_.  
16  
17  
18  
19 \_\_\_\_\_  
20 MICHAEL R. BARRETT  
21  
22 \_\_\_\_\_  
23 NOTARY PUBLIC  
24 My Commission Expires:  
25

<b>A</b>	<b>accounting</b>	48:2,6,7 49:17	34:15	71:19 98:23
<b>ability</b> 8:11,25	12:11 53:24	49:22,25 50:13	<b>agency</b> 14:13,15	132:1
15:15 18:15	<b>accuracy</b> 34:7	51:11,13 52:7	14:17 140:10	<b>American</b> 4:4
33:17 40:25	<b>accurate</b> 70:11	52:14 54:7	<b>agenda</b> 16:12	55:1
42:21 46:19	115:1,4,9	56:20 61:8	17:12	<b>amount</b> 11:21
128:5 131:25	151:11	66:15 71:8	<b>ago</b> 91:9 145:16	50:5 61:10
146:9 153:5	<b>accused</b> 15:18	74:3 81:7	145:19 155:14	64:14 120:23
174:10	71:25 168:15	82:18 84:20	166:9	120:23,25
<b>able</b> 21:19 22:10	<b>accusing</b> 122:16	86:18 87:9	<b>agree</b> 113:3,15	121:15 165:3
23:14 27:7	<b>achieve</b> 108:1,15	96:12,19,22,22	113:16 125:16	165:18 170:23
28:20 35:11	134:19	96:24 155:17	134:4	<b>amounts</b> 154:1
39:23 43:8	<b>achieved</b> 73:23	156:4 166:8,14	<b>agreed</b> 6:1 113:5	<b>analysis</b> 158:5
44:16 52:6,9	139:21,22	166:18 169:24	129:16	<b>analyst</b> 34:2
52:14 56:12	152:13	170:15	<b>Agreements</b>	<b>and/or</b> 31:19
58:25 64:22	<b>achieving</b>	<b>additionally</b>	124:21 125:1	175:12 177:8
84:21 93:17	107:23 119:13	36:10 37:11	<b>ahead</b> 16:18	<b>anecdotal</b>
96:14 102:19	119:14	58:6 156:11	48:14	157:12
106:14 108:12	<b>acknowledge</b>	<b>adequacy</b>	<b>akin</b> 172:12	<b>annual</b> 88:12
109:24 110:2,7	110:17	101:16	<b>al</b> 1:4,7 3:4,7,20	<b>answer</b> 8:9,24
110:10 113:20	<b>acknowledgm...</b>	<b>adequate</b> 106:6	3:21 6:18,19	9:7,9,10,16
124:13 129:12	56:13	115:20 117:24	175:7,7 176:2	11:13,24 12:3
139:12 152:11	<b>ACLU</b> 3:14 5:17	<b>Administer</b>	176:2	32:10 51:21
154:21 158:21	6:22	67:12,13	<b>Albany</b> 142:23	79:2 106:12
167:10,14	<b>action</b> 104:3,20	<b>administered</b>	<b>allegations</b>	110:12 113:17
170:5 171:16	174:13,17	33:21 66:24	114:21	114:16 115:5
<b>above-referen...</b>	<b>actions</b> 106:5	<b>administering</b>	<b>allegedly</b> 21:21	118:16 124:12
175:10	<b>active</b> 16:10	23:5	<b>allocate</b> 15:14	130:1 131:1,1
<b>accept</b> 63:1,3	30:20	<b>administers</b>	26:10 33:10	131:3,13,17
66:6,15 75:4,6	<b>actual</b> 158:5	26:23	<b>allocation</b> 26:14	133:4 134:23
96:7 98:12	<b>adage</b> 113:10	<b>administration</b>	<b>allocations</b>	139:12 146:16
103:19	<b>add</b> 36:8 155:12	34:2 72:20	11:20	147:8 148:7
<b>acceptable</b>	<b>added</b> 36:8,15	128:6 142:6	<b>allow</b> 9:15 66:14	149:14 152:14
134:21,25	102:18	<b>adult</b> 58:18	<b>allowed</b> 52:8	153:9 160:4
<b>acceptance</b>	<b>addition</b> 35:9	<b>advocacy</b> 18:3,6	120:6 142:25	164:25 165:16
78:18	36:4 46:7	58:16 59:1	153:20	<b>answered</b> 75:11
<b>accepted</b> 54:11	50:12 52:5	150:14	<b>allows</b> 124:2	95:20 130:11
56:13	54:19 58:3	<b>advocate</b> 56:19	<b>alluded</b> 47:21	130:22,24
<b>accepting</b> 87:12	59:18 96:6	<b>affirm</b> 7:18	85:20 134:12	131:10 149:10
98:18	127:9 143:20	<b>affirmed</b> 68:1	135:12 171:12	<b>answering</b> 9:15
<b>accepts</b> 74:3	150:11	<b>afford</b> 60:21	<b>all-encompass...</b>	146:15
<b>access</b> 61:11,14	<b>additional</b> 22:5	62:23	18:9	<b>answers</b> 19:7
64:16	22:22,25 23:24	<b>aftermath</b> 75:5	<b>alternative</b>	91:23
<b>account</b> 64:9	24:1 27:2,6	79:2	71:11 88:23	<b>Anthony</b> 5:17
160:16,20	35:6,15,20	<b>afternoon</b> 3:13	109:23 133:20	<b>anticipated</b>
<b>accountable</b>	36:16 37:19	<b>age</b> 6:11	<b>amend</b> 33:1	26:18 34:9
78:15	38:9,21 47:19	<b>agencies</b> 34:15	<b>Amendment</b>	<b>anyway</b> 103:2

## MIDWEST LITIGATION SERVICES



<b>apart</b> 124:6 134:24	63:3 73:21 75:14,22 88:22	23:18,24 24:9 35:14 50:7	<b>assessment</b> 112:19	122:21 123:15
<b>APD</b> 43:5,5,6 44:6,12 165:12	89:8 104:22 106:18 159:7	68:8 84:21 89:5 91:2	<b>assets</b> 61:17	<b>assure</b> 106:15
<b>APDs</b> 45:5 123:1,6 151:15 152:16	<b>appointments</b> 11:12 37:7 85:19	92:20,24 93:10 93:16 109:12 111:24 120:14 161:20 172:25	<b>assign</b> 129:10 169:13	107:3
<b>Aplin</b> 81:5 82:15	<b>appreciate</b> 125:9	<b>areas</b> 20:10,16	<b>assigned</b> 23:20 28:7 34:3 59:23 65:9,10 72:14 76:10 135:25 160:22 161:11	<b>attached</b> 2:20 157:7
<b>apologies</b> 19:25	<b>appropriate</b> 8:17 37:6 56:4 121:13 144:16 144:21 148:24	21:2 23:7 93:18 109:6,8 110:13,18,21 110:23,24 111:4,8 171:23 172:22,24 173:1,8,9	<b>assigning</b> 77:23 84:2 153:23 166:16	<b>attachment</b> 10:18,22
<b>apologize</b> 19:22 67:14	<b>appropriated</b> 22:6 47:19 145:5 148:25	<b>arena</b> 121:22	<b>assignment</b> 20:22 161:12	<b>attempt</b> 38:17 67:21
<b>apparently</b> 104:14 106:14 108:7 112:24	<b>appropriately</b> 118:8	<b>argument</b> 77:7 77:16 78:5 103:12	<b>assignments</b> 82:18	<b>attempting</b> 131:20
<b>appeal</b> 62:3	<b>appropriation</b> 148:2,13,14 153:7	<b>arises</b> 143:20	<b>assist</b> 142:7	<b>attend</b> 79:8 143:16
<b>appeals</b> 58:10 62:7	<b>appropriations</b> 56:3,25 147:16	<b>arrangement</b> 60:5	<b>assistance</b> 61:22 61:24 110:9 117:25 135:10 137:7,16 138:2 138:18 139:9 139:23	<b>attest</b> 115:9
<b>appear</b> 62:13 66:24	<b>approval</b> 16:14 33:3 34:4 39:5 40:4,9,10 53:14 150:6,16 151:4,4 172:2 172:3	<b>arrest</b> 21:9	<b>assistant</b> 12:19 39:4 40:12,16 41:10 42:1 43:5 44:3,21 46:17 74:17 104:6 158:10	<b>attorney</b> 5:3,8 27:6 35:15 38:12 43:1 46:9,24 50:3 61:16 62:24 74:7 77:9 86:11,15 89:10 101:7 106:25 119:25 120:23 122:21 123:20 127:20 129:11 129:18,18 135:17 137:1,5 142:9 162:21 167:10 168:9 174:15
<b>appears</b> 62:15 81:3,17 95:14 174:7	<b>approve</b> 25:18 25:18 39:18,20 59:10 150:12	<b>arrive</b> 57:7	<b>associate</b> 69:17 150:22	<b>attorneys</b> 2:13 8:21 9:21 11:10 12:14 30:17,18 33:1 35:2 38:13 41:6 43:4 50:3 58:12 76:23 77:6 82:13 84:13,20 85:3 85:16 87:15,17 87:23 88:21 89:6,7,14 119:16 122:24 124:18,24 125:12 127:2 127:16,17
<b>appellate</b> 17:10 19:17 58:8,11 58:13	<b>approved</b> 25:19 35:19 39:16,19 42:4 60:9 156:8	<b>aside</b> 134:10	<b>associated</b> 32:2 167:13	
<b>applicants</b> 27:13	<b>approving</b> 18:1 27:9	<b>asked</b> 24:20 57:1,7 58:6,15 58:19 69:12 106:9 116:18 116:19 130:10 130:22 131:15 133:2 157:3	<b>Association</b> 2:17 55:1 99:6 100:4	
<b>application</b> 60:2 60:4,6,10,11 70:14	<b>approximately</b> 6:16 14:16 65:16,19 84:19 100:24 101:2 164:8,11 173:13	<b>asking</b> 86:15 107:1 114:25 122:17 147:19 147:20 149:6 156:25 157:19 167:24	<b>Association's</b> 99:12	
<b>applications</b> 85:11	<b>arbiter</b> 106:23	<b>asks</b> 62:18	<b>assume</b> 35:22 73:8	
<b>apply</b> 60:8	<b>area</b> 20:14,14,17	<b>assembly</b> 15:13 142:10,22	<b>assuming</b> 38:20 53:10 73:8 77:23 115:3	
<b>applying</b> 173:3		<b>asserting</b> 75:7	<b>assurance</b>	
<b>appoint</b> 62:25 83:14 87:3,14 89:3 105:10 106:18 119:15 129:10		<b>assess</b> 60:11		
<b>appointed</b> 14:9 59:23 84:17 87:5,18 108:24 119:24 136:7 137:5		<b>assessed</b> 154:3		
<b>appointing</b> 68:3 89:2				
<b>appointment</b>				

## MIDWEST LITIGATION SERVICES

129:15 131:20 133:18,23 138:18 161:20 161:21 169:20 <b>attorney's</b> 148:10 163:1 165:13 <b>attribute</b> 50:22 <b>auditor</b> 54:17,23 <b>authority</b> 24:23 48:1 146:8 147:1,14 150:8 152:5 <b>authorization</b> 155:12,23 <b>authorize</b> 38:25 <b>authorized</b> 155:16 169:3 <b>Ava</b> 94:15 <b>availability</b> 133:18 <b>available</b> 23:3 26:24 35:9,13 39:1 66:15 69:9 77:24 83:19 84:1,13 85:3 86:16 98:14 109:10 129:9,23 173:3 <b>average</b> 164:19 164:24 165:11 <b>aware</b> 9:20 10:1 29:6,11 30:21 33:6 43:25 45:10 63:11,25 66:18 74:13 75:7,19,20 76:5 80:15,16 82:19,25 85:17 86:19 87:3,21 87:25 89:1,8 89:16 98:17 104:21 107:21 107:22 112:14 117:3,11 118:6 118:17 129:1	134:18 135:7 135:11,14,19 136:11,11 137:3,4,10,11 137:23 138:9 139:3,21 140:2 140:3 165:17 165:25 172:2 <b>a.m</b> 1:20 6:13,16 65:16,19 100:24 101:2  <b>B</b> <b>B</b> 2:9 125:22 126:2 129:21 129:22 160:17 <b>back</b> 22:4 34:24 35:21 39:12 60:10 65:18 70:8,12 72:4 73:12 83:22 101:1 124:3,6 127:19 128:2,7 129:6 135:22 138:5,7 140:24 142:14,18 143:5,6,6 145:9 148:16 157:2 164:10 166:16 <b>background</b> 146:20 <b>backlash</b> 68:4 <b>bad</b> 19:21 <b>bail</b> 61:10 <b>balance</b> 128:4 <b>balanced</b> 161:13 <b>bar</b> 2:17 55:1 78:23 83:15 84:2 98:2 99:5 99:12 100:4 105:11 108:17 <b>Barrett</b> 1:14 2:12 3:10 6:10 6:17 7:25 8:3 9:20 12:6	13:11 65:20 76:22 101:5 175:10 176:1 177:5,20 <b>Bar's</b> 88:11 <b>based</b> 34:10 44:4 52:12 53:9,14 55:5 56:11 58:4 71:5 106:2 157:4,12 158:5 161:13 <b>bases</b> 123:5 <b>basically</b> 104:5 118:6 149:13 151:9 <b>basis</b> 16:1 60:17 64:12 121:25 159:1 <b>bathroom</b> 100:18 <b>BCBA</b> 99:20 <b>began</b> 13:21 47:18 68:3 <b>beginning</b> 82:12 90:3 119:4 130:6 171:12 <b>begun</b> 87:3 <b>behalf</b> 1:15 3:22 6:12 <b>believe</b> 10:4,17 21:4 22:8 23:9 24:15 25:22 26:16 30:5,24 31:6,11,13,24 31:25 32:6,9 33:3,12,18,25 34:16 36:9 38:4 42:10 44:6 45:22 47:4,12 48:3,5 48:5,6 50:7 51:25 52:19 53:22 54:21 59:2 60:24 61:1,4,5,23	68:6,8 69:15 69:16,18 71:10 73:18 75:3 80:11,19 83:6 86:10,12 89:10 96:13 107:2,6 107:13 108:11 115:14 121:10 121:12 123:6 125:20,21 128:10 136:18 136:22 138:25 140:7 145:16 146:22,22 147:17 150:15 150:20 152:24 152:25 153:8 153:13 154:1 155:3,15 156:11 158:16 159:10 162:19 164:24 165:7 165:14,14 167:23 <b>benefit</b> 72:5 149:7 <b>benefits</b> 36:5,12 36:14 152:19 152:21 <b>best</b> 8:10,24 15:15 34:6 40:17 42:12 46:19 53:10 76:18 92:6 124:9 135:13 165:5 174:10 <b>better</b> 38:8 91:22 121:21 <b>beyond</b> 23:25 24:13 51:12 53:7 58:20 78:18 91:6 95:22 156:14 167:21 171:10 <b>bill</b> 6:24 55:13 56:6 68:16	70:8 117:19,22 <b>billing</b> 154:10 <b>bills</b> 55:15,15 <b>bit</b> 19:5 21:5 25:7 53:13 60:18 64:1 72:7,8 73:1 88:25 114:17 127:20 <b>Blau</b> 28:9,10 29:20 30:1 <b>bleed</b> 118:14 <b>Bluff</b> 86:10 <b>board</b> 150:25 <b>body</b> 50:10 <b>bolts</b> 92:4 <b>bond</b> 61:10,13 61:13 63:23 64:2,6,10,14 <b>bonds</b> 61:9 <b>books</b> 12:10 <b>Boone</b> 2:17 67:25 68:7,8 81:6 83:8,25 84:3,14 85:1 87:16 89:9 95:6 98:3 99:5 99:11 100:3,7 103:17,21 104:2,3,15 105:7,8,15 106:14 112:25 113:13 <b>borne</b> 106:24 <b>borrow</b> 151:19 151:21 <b>bottom</b> 92:24 <b>bottom-up</b> 37:8 <b>branch</b> 25:2 149:21 152:12 <b>break</b> 8:18 41:20 100:19 164:3,12 <b>breaks</b> 8:17 <b>brief</b> 15:1 17:25 140:15,17
--	---	---	--	---

## MIDWEST LITIGATION SERVICES

142:3	<b>budgets</b> 12:13	<b>capturing</b>	89:18 90:3	95:22 96:7,10
<b>bring</b> 31:12 40:4	<b>Building</b> 4:20	162:17 163:2	91:2 94:24	96:17,18 97:13
96:4 102:19	175:5	<b>carried</b> 105:18	95:12,15 97:22	97:14,15 98:12
103:6 115:15	<b>business</b> 89:10	105:19	101:24 102:20	98:18 102:19
153:18	144:12	<b>carry</b> 30:3,7,8	102:25 105:20	103:2,3,6,6,19
<b>bringing</b> 51:7	<b>Butler</b> 86:12	131:21 144:12	106:2 119:8	104:9 108:18
<b>broad</b> 4:5	<b>B-L-A-U</b> 28:10	<b>case</b> 1:6 3:6 6:19	160:6,11,14,14	108:19 110:15
172:21		8:3,9 9:21	161:8,9	119:12,13,14
<b>broadband</b> 50:7	<b>C</b>	11:11 22:1	<b>caseloads</b> 34:21	119:14,23
50:9	<b>C</b> 4:1 125:23	24:15 31:2	43:23 45:4,8	120:2,8 121:14
<b>broader</b> 146:5	126:3 160:25	35:17 37:6	51:17 82:15	125:17 127:12
149:9 159:14	<b>calculated</b> 54:16	40:3,4,6,18	83:23 92:16	132:10,11,14
<b>broadly</b> 113:22	<b>calculation</b> 54:3	41:3 48:5 54:1	101:12,14,23	132:16,21,25
<b>brought</b> 45:11	<b>calculus</b> 54:9	54:5 65:5,12	102:23 103:7	133:6,10,17,24
103:3	58:5 60:22	65:21 66:1,2,2	104:9 161:2	133:25 134:5,8
<b>brush</b> 172:21	<b>calendar</b> 48:3	66:8 70:13	171:9	134:16 137:22
<b>budget</b> 11:19	143:19 145:18	72:5 73:2,5,8	<b>cases</b> 15:16	139:15 159:16
12:10 15:11	159:22	73:14,17,21,24	16:15,23 17:10	159:25 160:15
16:16 18:1	<b>calendared</b> 79:8	74:3,18 75:4	19:16,18,21	160:23 161:10
20:23 25:14,19	<b>California</b> 4:10	76:16 77:7,16	20:2,3,22 21:6	161:13,15,16
25:20,24,25	<b>call</b> 29:14,16,19	85:18 87:4	22:3,8,18,24	161:17,17,24
26:17,21,23	29:23 46:15,15	97:21 98:13	23:1,3,18 24:2	165:1,2,4,20
27:15 33:13,16	69:2,13 70:3	103:13 106:4	26:17 27:1	169:6 170:19
33:20 34:2	86:13 162:8	112:13 114:20	30:9,15 31:10	171:5
36:5 47:10,14	163:8	116:11 118:24	34:11,11,12,13	<b>cash</b> 36:7 61:16
49:2,4,6,11,13	<b>called</b> 20:20	120:8 125:23	34:22 37:19	<b>Cat</b> 68:8
49:16 50:15	22:9 35:11	127:2 129:2,5	38:2,9,15,19	<b>cataloged</b>
53:11,20 54:8	53:23 110:19	129:6,6,8	38:24 39:24	118:23
54:20 55:10,13	<b>calling</b> 44:11	135:12,17,21	42:22,25 43:15	<b>categorically</b>
55:15,15,17,19	46:24 79:6	135:21,23	43:17 45:6	110:11 170:14
55:22,23 56:2	<b>calls</b> 46:7 86:8	136:4,23 137:3	50:4 51:8,9	170:17
56:6,17,23	88:17 143:21	137:5 157:8	52:1,8,9 54:1,5	<b>categories</b> 170:4
57:3,23 58:6	162:11,12	160:16,17	54:22 58:14,23	<b>categorize</b>
58:20 59:8,9	<b>cam</b> 50:10	164:21 165:5	59:16 66:6,16	110:22
63:5 70:22	<b>cap</b> 35:10	165:11 175:10	66:17 67:20	<b>Catherine</b> 67:16
145:10,16	<b>capabilities</b>	176:2	68:13,22 71:5	<b>caucus</b> 142:11
148:19,21	130:4	<b>caseload</b> 2:15	71:11 72:13,13	<b>cause</b> 3:18 18:16
149:3 150:12	<b>capacity</b> 91:6	16:14 26:24	72:18 75:6	<b>caused</b> 102:23
152:22 154:7	93:10,12 95:16	30:3,8,8,19,20	76:1,3,8 77:19	<b>CCR</b> 5:22
155:4,14,15,16	96:15 141:15	39:2 44:22	77:24 78:7,11	<b>cell</b> 88:8,15
156:7 166:9	142:25	46:3 50:24	78:18 79:13	<b>Center</b> 4:19
<b>budgetary</b> 50:23	<b>capital</b> 19:17	51:4 52:19	81:8 82:16,16	175:4
152:18	20:1,3 121:14	54:23,25 55:3	82:17 83:14,16	<b>central</b> 1:2 3:2
<b>budgeted</b> 165:3	<b>captioned</b> 65:22	55:4,5 58:18	84:2,14 86:11	3:20 6:21 19:9
<b>budgeting</b> 25:9	<b>captured</b> 158:17	62:21 63:20	86:17 87:24	19:14 29:14
25:14	<b>captures</b> 158:14	75:3 76:7 80:5	89:14 91:18,20	31:5 33:11

## MIDWEST LITIGATION SERVICES

58:12 77:10 <b>centrally</b> 163:10 163:11 <b>certain</b> 3:18 16:22 41:2 45:24 46:23 72:12 109:8 110:13 165:9 <b>certainly</b> 92:14 93:2 <b>certainty</b> 31:1 <b>CERTIFICA...</b> 174:1 <b>Certified</b> 3:16 3:17 6:5,5 174:3,4,5,21 <b>certify</b> 174:6 177:5 <b>chain</b> 27:24 <b>chair</b> 16:13 17:25 54:20 100:5 <b>challenge</b> 43:13 <b>challenged</b> 54:24 57:8 <b>chance</b> 10:5 79:20 <b>change</b> 176:7,11 176:15,19,23 <b>changes</b> 25:19 33:20 50:22 102:18 175:12 177:7,10 <b>changing</b> 102:12 <b>channel</b> 70:9 <b>channels</b> 162:5 <b>characterize</b> 93:19 111:13 120:17 <b>characterized</b> 114:1 126:23 <b>charge</b> 15:20 30:14 46:14 118:21 125:22 126:1 <b>charged</b> 102:13	168:6 <b>charges</b> 60:21 86:18 <b>charging</b> 153:24 <b>Charles</b> 94:4,5 <b>chart</b> 20:6 27:23 150:17 <b>charts</b> 51:24 92:13 <b>check</b> 164:4 <b>chief</b> 15:1 32:19 78:13 101:6 106:13,14 140:16 <b>Chillicothe</b> 24:6 65:7 <b>choose</b> 158:18 <b>choosing</b> 73:21 <b>Church</b> 1:4 3:4 3:20 6:18 175:7 176:2 <b>circuit</b> 32:22,23 32:24 81:6 129:17 134:14 134:17 150:22 150:22 <b>circumstance</b> 30:5 <b>circumstances</b> 8:23 11:9 75:12 <b>cite</b> 45:15 <b>cited</b> 80:4 <b>cities</b> 155:3 <b>Citing</b> 80:4 <b>city</b> 5:9 20:13,25 30:24 31:24 41:14,15 68:5 85:25 86:3,4 <b>Civil</b> 4:4 9:24 <b>claims</b> 139:9 <b>clean</b> 9:16 117:19,21 <b>clear</b> 8:25 9:1,12 9:13 23:16 32:3 131:6	<b>clearly</b> 9:8 <b>clerical</b> 60:10 <b>client</b> 40:18 42:8 42:9,10,19,24 46:21,22 74:1 74:23 86:17 122:15 123:23 124:8 126:18 128:21 129:13 135:18,19 153:25 158:11 158:15,24 162:13,22 163:15 167:11 167:15 <b>clients</b> 41:3 74:6 74:8 85:7 98:9 102:12 127:8 129:16 139:4 142:24,24 153:21 154:4 <b>close</b> 55:22 164:2 <b>closed</b> 16:20 55:25 <b>closer</b> 51:9 <b>code</b> 22:9,13,16 22:23 23:8,15 23:17 47:21 50:1 75:1 113:25 122:4 122:14 123:8 125:4 126:23 127:16 134:8 134:24 135:3,8 136:1 137:6 149:7 <b>codes</b> 142:11,22 <b>codify</b> 66:19,21 <b>Cole</b> 21:16 <b>collect</b> 153:21 <b>collecting</b> 129:24 154:12 <b>collection</b> 158:13 <b>collections</b>	154:10 <b>Columbia</b> 4:21 21:10,11 81:4 95:7,14 175:6 <b>column</b> 91:17,17 <b>combat</b> 142:5 <b>combating</b> 142:7 <b>combination</b> 44:25 <b>come</b> 15:16 34:23 44:24 47:5 70:12,13 85:8 92:15 93:3 109:11 119:23 122:7 138:21 154:6 162:12 172:7 <b>comes</b> 33:12 42:4 92:5 154:15,15 162:4,25 163:8 163:8 165:4 <b>coming</b> 34:8 67:23 110:15 145:25 <b>command</b> 27:24 <b>comments</b> 57:12 70:1 77:17 <b>commission</b> 15:25 16:4,5 16:11,13 17:12 17:15,19,23 18:12,25 19:3 25:6,15,17 53:14 59:7 63:10,10 65:22 143:15 144:11 149:16,22,25 150:6,8,25 156:8,9 177:24 <b>commissioner</b> 141:11 <b>commission's</b> 24:21 <b>committee</b> 55:18	55:23 56:3,4,5 56:17,23 100:6 100:6,7 142:11 142:22 <b>common</b> 167:8 <b>commonplace</b> 33:16 63:2 <b>communicate</b> 51:3 85:12 <b>communicated</b> 69:9 80:10,17 81:25 82:14 85:23 86:1,5 159:24 <b>communicating</b> 39:17 70:6 <b>communication</b> 39:6 52:12 68:12 81:3,9 81:12 82:3 83:20 <b>communicatio...</b> 70:9 79:11 <b>comp</b> 141:21 <b>compared</b> 121:5 <b>compensated</b> 87:18,23 <b>competence</b> 37:13,16 <b>competent</b> 58:22 71:18 84:22 89:4 96:5 98:24 106:7,16 107:4,7,10,17 107:24 108:15 109:3,19 131:25 135:24 168:8,15 <b>competently</b> 74:5 108:18 127:11 <b>complaining</b> 162:13 <b>complaint</b> 44:21 45:20 46:18 78:23 114:19
--	---	---	--	--

## MIDWEST LITIGATION SERVICES

115:1,17	78:10 101:11	98:24 106:24	124:23 125:14	102:21 106:11
118:24 157:8	101:15 105:25	<b>conflicts</b> 23:21	125:19,20	119:17 120:9
162:4,22,25	135:4 161:3	24:12 64:21	126:3,18 127:2	145:12 147:23
163:15,16	<b>concerning</b>	73:25 74:21	129:11,18	149:18 156:2
<b>complaints</b>	90:13 162:8	76:20	165:19	157:15 166:19
44:23,24 46:4	<b>concerns</b> 28:16	<b>confused</b> 48:10	<b>contracted</b>	167:20 168:17
47:5 162:2,3	29:21 45:25	66:3	22:18 124:24	177:9,13
162:18 163:3	54:20,24 57:14	<b>connection</b>	129:5 135:17	<b>correction</b>
<b>completed</b> 53:22	57:16,19	158:23	<b>contracting</b>	145:15
<b>complex</b> 29:16	122:20	<b>consensus</b> 52:24	22:24 122:14	<b>corrections</b>
60:23	<b>concluded</b>	120:22	<b>contracts</b> 124:18	175:12
<b>complexity</b>	173:23	<b>consider</b> 42:6,25	124:22 125:1	<b>correctly</b> 122:23
82:16 126:14	<b>conclusion</b>	63:16 92:14	<b>contrast</b> 44:13	148:13 155:8
160:16	117:17 118:2,3	93:18 111:6,8	<b>contribute</b>	161:5
<b>complicated</b>	118:19	111:16 164:13	170:23	<b>correspondence</b>
60:18 170:17	<b>conclusions</b>	<b>considered</b>	<b>contributed</b>	47:2 81:23
<b>component</b>	119:3	61:19	102:25	103:25 104:24
44:13,14 60:25	<b>condensed</b>	<b>consistent</b> 83:4	<b>control</b> 16:25	105:6
<b>components</b>	173:19	<b>constituted</b>	25:4 36:3,10	<b>corresponding</b>
61:9	<b>condition</b> 78:8	114:22 117:9	36:18 149:15	53:6
<b>comport</b> 96:9	78:12,17	<b>constitutional</b>	151:10	<b>cost</b> 32:1,2
<b>comptroller</b>	134:15	101:16 135:5	<b>controlled</b> 17:1	164:20 170:23
15:11 25:13	<b>conduct</b> 18:17	146:25 147:14	149:22	171:3
26:16 167:2	30:13 37:11,13	<b>constitutionally</b>	<b>conversation</b>	<b>counsel</b> 6:2,2 7:2
<b>compulsory</b>	37:25 41:2	58:21 152:7	68:11,12,17	14:10,23 22:19
151:22	42:11,18 74:13	<b>contact</b> 40:14	69:25 85:20	29:17 64:11
<b>computer</b> 50:11	75:16 78:21	42:9,12,19	172:15	71:24 72:15
<b>computerized</b>	79:14 96:2	92:16 158:11	<b>conversations</b>	75:22 78:14
162:9	98:8 104:12	158:24 170:12	26:7,8 57:6,11	88:22 89:3
<b>con</b> 111:11	<b>conference</b> 69:2	<b>contacts</b> 158:15	57:18 69:13	102:6 106:18
120:21	85:21 88:11	<b>contemplating</b>	<b>convicted</b> 137:9	110:10 117:10
<b>concede</b> 45:11	<b>confess</b> 157:10	89:2	<b>conviction</b> 77:10	118:13 120:7
124:1	<b>confidence</b>	<b>contention</b>	137:19,25	121:21 123:8
<b>Conceivably</b>	110:16	146:24	<b>copies</b> 2:20	124:8 128:17
102:14	<b>confirm</b> 152:15	<b>context</b> 51:14	175:9	135:10 136:17
<b>concept</b> 164:19	<b>conflict</b> 21:6,8	101:22	<b>copy</b> 10:2,12,13	137:7 138:2,13
164:22 166:21	22:3,8,18,24	<b>continue</b> 67:19	10:15 175:12	138:18 139:10
173:6	23:1,18 24:2	72:12	<b>core</b> 50:15	139:23 140:6,9
<b>conceptually</b>	59:16 73:22,22	<b>continued</b>	155:20	140:13 165:19
107:16 108:14	74:2,11,18,22	136:10 155:22	<b>correct</b> 9:25	174:12,15
109:1 110:3,7	75:1,8,22 76:1	155:23	14:3 17:16,17	<b>counselor</b> 142:5
110:8 112:10	76:3,8,16	<b>contract</b> 21:18	21:4 27:22	152:10 172:20
112:24 113:21	97:15 114:5,6	22:2 23:1	36:23 48:21	<b>counsel's</b> 146:3
<b>concern</b> 37:18	120:2,8 123:22	32:16 72:18	49:13 56:21	<b>counted</b> 126:22
37:20 45:12	124:8 129:7	74:25 114:3	57:24 66:7	<b>counties</b> 20:18
68:23 78:3,6	<b>conflicted</b> 71:13	120:21 121:12	76:11 99:24	20:24 22:12,14

## MIDWEST LITIGATION SERVICES



22:16,17 23:19 23:20,24 24:1 24:5,7,9,11,13 26:20 30:16 32:3 65:8 75:23 76:5,9 86:12,22,25 87:21 88:2 91:1,4 93:16 93:18,19 100:13 102:17 103:3 109:16 134:14,17 154:25 155:1 170:20,22 <b>country</b> 121:11 <b>county</b> 2:17 20:12,15 21:16 21:23 23:23 31:19 50:1 53:4 65:9,11 67:25 68:7,8 69:19 81:6 83:8,25 84:3 84:14 85:1 86:3,20 87:16 88:4 89:9 91:1 91:7,8 92:20 95:6 98:3 99:5 99:12 100:3 102:17 103:17 103:21 104:2,3 104:15 105:7,9 105:15 106:14 112:25 113:13 129:20,21,22 142:23 161:21 170:9,21 171:1 171:4 177:3 <b>couple</b> 8:6 27:19 102:16 135:2 166:8 168:23 <b>course</b> 16:20 28:4 45:7 53:3 59:21 68:22 69:24 79:23	119:4 <b>court</b> 1:1 2:20 3:1,16,19 5:21 6:5,20 7:18 8:13 9:9,17 19:19 31:25 32:25 34:16 37:7,15 49:5 54:22,22 58:10 60:8 62:13 65:21 68:2 69:5,10 72:19 76:17 77:8,17 82:10,22 85:12 88:4 91:19 103:13 105:9 108:24 109:8 117:6 125:25 136:2 144:17 146:23 152:5,8 156:12 168:11 173:14,17 174:4,21 <b>courtesy</b> 17:24 151:3 <b>courts</b> 106:16 107:3 <b>court's</b> 107:7,9 107:13 108:1 137:1 <b>cover</b> 26:19,20 32:1 36:5 129:21 <b>coverage</b> 129:12 129:21 <b>covered</b> 24:9 131:18 <b>covers</b> 65:8 86:9 <b>coy</b> 107:19 118:14 <b>cracks</b> 63:21 <b>crafted</b> 77:5 <b>Crane</b> 2:14 80:21 81:15,18 82:1 83:11,12 83:14 84:1	85:9 87:2 89:1 104:15,19 106:13,22 108:7,9 <b>Crane's</b> 105:17 106:5 <b>create</b> 172:16 <b>created</b> 35:23 75:19 90:5 113:12 <b>creates</b> 121:3 151:23 <b>creating</b> 44:8 <b>crime</b> 21:21 142:5,7 <b>crimes</b> 102:13 141:17,18 <b>criminal</b> 89:5,7 89:11 100:6,7 105:12 108:17 109:2,17 120:16 123:25 133:18 141:12 142:17,24 168:6 <b>crisis</b> 70:23 132:5 133:12 <b>criteria</b> 42:15 44:1,5 73:2,3 158:10,11,24 159:8,10 <b>critical</b> 161:3 <b>criticism</b> 54:14 54:17 <b>cultural</b> 39:11 <b>culture</b> 32:23 43:14 <b>Cumulative</b> 2:15 89:17 90:3 <b>current</b> 15:6 16:16 47:9 54:3,6 71:23 73:2 83:7 131:23 146:11 148:14,21	<b>currently</b> 16:9 23:4 92:24 95:18 114:22 117:9 120:1 131:19 171:1 <b>custody</b> 84:5,5 <b>cycle</b> 22:25 47:19 55:7 148:21 155:15 155:16 <b>cycles</b> 145:16 155:14 166:9 <hr/> <b>D</b> <b>D</b> 2:1 4:4 125:23 126:3 <b>data</b> 129:24 157:5,14 158:5 158:13 159:23 162:7 <b>database</b> 47:4 158:19 162:3,8 <b>data-driven</b> 53:23 55:3,5 <b>date</b> 6:15 16:21 39:12 79:19 81:11,16,19 115:8,10 140:22 176:3 <b>dates</b> 79:25 <b>David</b> 81:5 <b>day</b> 3:13 51:5 71:12 82:2 83:1 166:15 177:14 <b>days</b> 42:11,13 79:24 159:6,7 175:17 <b>day-to-day</b> 17:19,22 <b>deal</b> 49:7 85:7 162:22 <b>dealing</b> 16:23 <b>Dear</b> 175:8 <b>dearth</b> 173:2 <b>death</b> 34:12	<b>decide</b> 37:23 93:4 123:19,21 <b>decided</b> 63:18 64:13 <b>deciding</b> 29:5 <b>decision</b> 51:2 60:14,17 62:7 63:6 66:10,20 68:22 69:22 83:3 85:15 135:20 136:9 136:12 150:4,5 151:2 170:25 171:18 <b>decisions</b> 16:2 26:14 55:16 172:7 <b>declare</b> 177:12 <b>declining</b> 96:7 <b>decrease</b> 132:20 <b>deemed</b> 136:1 <b>defend</b> 164:20 <b>defendant</b> 21:13 21:19 46:8 47:2 59:24 60:7,8 62:6 74:4,22 106:1 107:4,10 108:23 135:7 136:8,25 137:16 <b>defendants</b> 1:8 3:8,22 4:17 6:3 7:15 21:10 46:5,15 84:22 85:2 98:20 101:17 104:17 105:12,15,21 106:1,17,21 109:2,19 110:10 117:5 117:25 118:10 119:17,24 120:8 121:19 130:20 132:5 139:15,16
--	---	---	---	---

## MIDWEST LITIGATION SERVICES

142:17 168:14 <b>defender</b> 4:17 4:19 7:15 9:22 13:14,17,19 15:12,25 16:4 16:11 17:15 19:12 20:21,21 21:14,15,22 25:5,15,17 26:22 30:7,24 33:14,18 37:20 37:23 38:1,14 39:25 41:7,17 41:18,22 43:5 44:21,24 46:11 46:11,25 52:5 59:7 60:9 62:1 63:10 64:3,19 65:5,22 67:21 69:3 73:4,21 74:10,17 75:13 76:16 79:6,21 81:4 82:4 85:4 86:1,9,14 87:8 90:2 95:24 98:15,16 105:8 107:20 114:13 114:22 115:19 117:8,12,20 118:7 119:1 121:18 137:14 139:17,24 140:5 142:19 146:1 148:2 149:20 150:15 156:8,9 164:20 165:25 167:20 170:11 175:3 <b>defenders</b> 12:17 12:20 27:20,21 28:12 30:2,20 32:20 34:24 36:19 37:4 39:4 40:12,16 41:10,25 42:1 43:24 44:3	45:21 75:22 76:6 78:4 79:7 79:8 87:12 104:6 120:15 121:2 126:25 127:4 149:15 154:24 157:13 158:10 <b>defender's</b> 13:25 14:1 15:8 17:14 33:23 59:22 60:2,14 62:13 69:7 70:22 73:1 83:9 99:21 119:7 142:16 142:23 <b>defense</b> 89:5,7 89:11 100:6 108:18 109:17 120:14,16 127:1 133:12 142:17,24 <b>deferring</b> 124:17 <b>deficiencies</b> 117:8 118:17 131:24 135:3 <b>Define</b> 128:23 <b>definitively</b> 109:24 <b>degree</b> 12:12 <b>demonstrate</b> 74:11 <b>departing</b> 167:10 <b>department</b> 25:1 29:18 34:3 45:25 55:20 56:1 67:1 90:7 127:24 141:4,4 149:2,20,23,23 149:24 150:23 151:10 152:6,9 153:5 156:4	167:3 <b>departmental</b> 56:9,10 <b>departments</b> 152:25 <b>departure</b> 167:7 <b>depend</b> 64:24 83:18 129:14 161:25 <b>dependents</b> 61:20 <b>depending</b> 29:1 65:11 <b>depos</b> 173:18 <b>deposed</b> 8:4 <b>deposes</b> 6:12 <b>deposition</b> 1:14 1:20 2:11 3:10 6:3,13,17,22 8:15 9:23 10:3 10:6,9,16 12:7 12:17,21 116:13 173:23 174:8,14 175:9 177:6,8,11 <b>deprives</b> 74:5 <b>deputies</b> 12:25 13:2 17:5 <b>deputy</b> 13:5,6 14:23 15:1 17:9 22:10 23:13 28:5 41:17,21 46:11 46:13 79:7 81:5 86:14 98:16 140:13 140:16 141:11 142:3 151:6 <b>describe</b> 13:23 15:6 77:4 81:2 91:10 94:2,5,8 94:11,14,22 151:5 <b>description</b> 11:1 11:16 <b>desert</b> 111:12,25	171:23 172:11 <b>deserts</b> 109:7 110:19 111:1,7 111:10,20 112:4,8 129:17 134:10 <b>design</b> 28:14,19 62:16 <b>designated</b> 9:23 <b>desired</b> 175:13 <b>destination</b> 154:5 <b>detail</b> 67:4 <b>details</b> 44:17 68:19 72:23 93:7 124:4 131:11 <b>detention</b> 84:8 <b>determination</b> 62:2,5 63:23 64:1,13,24 66:16 71:22 78:19 135:22 137:25 138:1 138:23 163:5 <b>determinations</b> 138:20 <b>determine</b> 26:10 35:19 40:17 41:25 60:20 65:4 89:13 150:25 <b>determined</b> 63:7 64:17 72:21 121:12 128:22 <b>determines</b> 74:17 <b>determining</b> 59:8 64:20 <b>development</b> 57:3 141:5,7 <b>DeVries</b> 3:16 5:22 6:4,24 174:3 175:23 <b>diagnosis</b> 118:24	<b>differ</b> 160:14 <b>differed</b> 56:16 <b>difference</b> 149:4 <b>differences</b> 56:18 <b>different</b> 43:3 62:10 115:5 150:24 153:12 158:17 160:10 160:12,19 165:24 170:20 171:2 173:9 <b>differing</b> 159:3 <b>difficult</b> 172:21 <b>difficulty</b> 171:25 <b>diligence</b> 37:14 37:16 <b>diligent</b> 38:23 <b>Diplomate</b> 3:17 174:5 <b>dire</b> 71:7 <b>direct</b> 28:13 40:25 70:5 <b>directed</b> 30:1 <b>directing</b> 40:21 41:5 <b>direction</b> 46:22 69:8 86:15,18 174:11 <b>directive</b> 39:18 75:18 <b>directives</b> 69:21 79:12 <b>directly</b> 27:17 28:6,17 29:20 33:19 44:25 46:5 57:20 <b>director</b> 13:5,6 13:16,19 14:5 14:9 15:7 17:6 22:10 23:14 26:10 28:1,2,8 30:5 40:24 46:13 88:21 99:20 119:6 135:3 138:14
--	---	---	---	---

## MIDWEST LITIGATION SERVICES

150:12 167:19 <b>directors</b> 17:5 151:6,7 <b>disability</b> 61:25 <b>disciplinary</b> 77:7,13 78:14 <b>discovery</b> 50:9 122:17 135:19 <b>discretion</b> 32:19 33:9 35:1 36:20 37:5 40:16 126:16 <b>discrimination</b> 46:1 <b>discuss</b> 83:22 85:6 143:21 <b>discussed</b> 54:23 84:25 85:9 87:1 88:13 102:11 <b>discussing</b> 92:16 143:22 <b>discussion</b> 86:6 153:2 <b>discussions</b> 72:24 <b>dismissals</b> 160:2 <b>dispose</b> 39:24 <b>disposed</b> 135:23 159:17 <b>disrupting</b> 50:10 <b>distinction</b> 121:4 127:14 <b>distributed</b> 77:6 <b>district</b> 1:1,1 3:1 3:1,19,19 6:20 6:20 12:16 19:8 20:20,21 21:3 23:17 24:4,5,14 26:11,22 27:14 27:20,21 28:12 30:2,7,20,24 31:4 32:20 33:18 34:24	36:19 37:4,20 37:22 38:1,14 39:9 41:6,12 41:17,18,22,25 44:24 46:10,11 46:25 52:5 58:9,10,11 65:4 69:3,7 73:16 74:16 76:2,6 79:7,7 81:4 82:4 84:23 85:17,25 86:9,14 87:12 95:21 98:15,16 129:11 153:3 154:25 158:25 170:11 <b>districts</b> 22:3 23:7,20 169:19 <b>divide</b> 41:19 <b>division</b> 1:2 3:2 3:20 6:21 17:5 17:6,8 19:15 19:17,18 20:1 20:8,8,9 27:25 28:1,2,8 30:6 43:2,10 96:14 96:22 97:3 151:6 165:1,2 165:4 <b>divisions</b> 19:13 19:14 20:6,7 <b>doc</b> 162:23 <b>dockets</b> 105:10 <b>document</b> 10:11 77:1,2 80:24 80:25 81:15 89:21,22,23 90:1,5,7,15,17 93:8 95:6 99:9 99:10,16 114:20 144:7 162:23 <b>documentation</b> 74:9 92:13 122:17 144:15	144:19 163:16 <b>documents</b> 13:7 13:9 90:14 <b>doing</b> 16:16 18:22 49:24 50:8 71:17 114:17 117:23 143:1 169:16 <b>dollar</b> 120:17 165:20 170:23 <b>dollars</b> 31:12 47:15 48:7 <b>door</b> 15:17 34:23 154:15 154:15 <b>dos</b> 29:2 <b>download</b> 50:9 <b>draft</b> 25:14,19 25:20 <b>drawback</b> 128:16,19 <b>drawbacks</b> 64:4 <b>drawn</b> 92:5 <b>drive</b> 21:23 58:13 151:2 <b>driven</b> 44:7,12 44:12 53:1 <b>driver</b> 26:23 45:17 54:8 <b>driving</b> 51:17 52:3,15 <b>drop</b> 92:23 120:19 <b>drug</b> 31:25 <b>due</b> 81:23 98:25 104:23 105:6 168:9,12 <b>duly</b> 174:8 <b>duties</b> 167:19,21 167:22 168:1 <b>duty</b> 74:22 107:14 168:14 172:13 <b>dynamics</b> 173:9	E 2:1,9 4:1,1 126:3 <b>earlier</b> 32:25 33:2 41:12 47:22 50:2 53:8,14 65:8 75:25 83:1 85:20 104:20 115:11 116:7 133:8 134:12 171:13 <b>early</b> 115:17 118:12 <b>earned</b> 126:19 <b>easier</b> 9:17 <b>economic</b> 141:5 141:7 <b>educated</b> 90:12 <b>effect</b> 88:14 <b>effective</b> 98:23 105:9 110:9 <b>efficient</b> 59:19 <b>effort</b> 23:5 29:22 38:17 <b>efforts</b> 134:15 142:5 144:25 <b>eight</b> 3:12 <b>eighties</b> 115:12 118:12 119:5 <b>either</b> 29:16 35:1 46:16 55:22 61:15 74:24 75:21 82:14 85:17 87:2,21 111:9 113:7 115:6 129:8 131:4 137:12 167:11 170:3,4 <b>elaborate</b> 129:4 <b>elected</b> 69:17 <b>electricity</b> 32:9 <b>electronically</b> 158:20 <b>Eleventh</b> 5:14 5:23	<b>eligibility</b> 63:17 <b>eligible</b> 36:14 109:14 <b>Ellen</b> 28:9 <b>Elmer</b> 13:6 22:10 23:14 44:16,20 59:4 59:5 64:22 67:3 74:25 76:18,20 115:7 124:3,9,14,17 125:8 126:7,16 126:20 128:1,3 129:1 130:3 134:15,19 136:14 154:18 157:16 159:12 160:13 165:22 <b>embellishment</b> 116:7 <b>Emergency</b> 14:12 140:10 <b>empirical</b> 53:23 <b>empirically</b> 55:5 <b>employ</b> 109:7 122:12 128:4 131:19 <b>employed</b> 13:12 61:20 174:12 174:16 <b>employee</b> 38:22 174:15 <b>employees</b> 9:22 15:23 29:21 36:11 70:4 <b>employer</b> 78:6 <b>employment</b> 77:25 78:8,12 78:18 <b>enacting</b> 66:23 <b>enclosed</b> 175:9 175:10 <b>encompass</b> 24:5 24:13 <b>encourage</b> 120:24
---	--	--	--	---

## E

## MIDWEST LITIGATION SERVICES

<b>encouraged</b> 44:23 95:21	175:7,7 176:2 176:2	77:1 80:21,24 89:17,21 95:6	<b>explicitly</b> 57:9 <b>expressed</b> 87:2 88:6	135:14 <b>failed</b> 64:9
<b>encourages</b> 121:15	<b>ethical</b> 71:6,14 71:15 96:5	99:5,10 103:13 104:23 105:1,3	<b>expressly</b> 6:8	<b>fair</b> 44:18 53:12 71:9 90:25
<b>endeavor</b> 123:2 123:4	<b>ethically</b> 38:18 <b>evaluate</b> 42:17	111:1,6 116:9 116:13 171:8	<b>extent</b> 18:24 21:19 23:2	92:17 93:8,23 93:25 94:24
<b>endeavored</b> 63:15 72:1	<b>evaluated</b> 42:1 <b>evaluating</b> 18:13	<b>exhibits</b> 2:20 <b>exist</b> 108:19	26:19 40:7 50:2 62:11	104:17,18 122:22 147:9
<b>endeavoring</b> 49:25	158:10 <b>evaluation</b> 18:21	<b>existed</b> 33:5 <b>existing</b> 39:23	63:4 96:3 104:19 105:18	<b>fall</b> 170:3 <b>falling</b> 63:21
<b>ends</b> 107:23	19:1 43:23 158:15	39:24 62:21 63:19 73:25	114:3 118:1,17 120:2 124:13	<b>falls</b> 95:18 <b>familiar</b> 65:21
<b>enforcement</b> 52:23	<b>evaluations</b> 18:18	74:6,7,23 96:10 98:9	127:11,23 131:19 154:13	72:17 76:12 117:10 118:1
<b>engage</b> 38:5 <b>engaged</b> 39:21	<b>evasion</b> 141:20 <b>event</b> 23:21	166:15 <b>exists</b> 74:11	159:2 <b>extremely</b> 71:13	120:14 121:8,9 127:23 167:25
<b>ensure</b> 107:10 168:9	33:19 86:6 <b>events</b> 69:22	<b>exit</b> 45:14 167:7 <b>expanding</b>	<b>ex-employees</b> 167:8	<b>family</b> 172:24 <b>far</b> 16:17 89:12
<b>entailed</b> 72:10 <b>enter</b> 23:12	<b>evidence-based</b> 157:5	63:16 <b>expect</b> 8:16	<b>E-L-L-E-N</b> 28:9 <b>e-mail</b> 2:14	128:5 138:5 171:13,23
<b>entering</b> 116:8 <b>entirely</b> 83:18	<b>exactly</b> 90:23 147:19 160:3	97:20 98:14 157:1	29:19 80:19,20 80:21 81:9,20	<b>fashion</b> 129:4 <b>fast</b> 144:23
<b>entities</b> 90:19 <b>entitled</b> 98:25	<b>exactness</b> 157:18	<b>expectation</b> 98:5 127:12	82:1,9,11,20 104:1 173:20	<b>fault</b> 115:18 117:4,7 119:21
<b>entity</b> 25:5 <b>entrusted</b>	<b>EXAMINATI...</b> 7:23 101:3	<b>expectations</b> 77:18	173:21,22 <b>e-mailing</b> 46:24	<b>fear</b> 167:12 <b>fearful</b> 172:17
121:20 <b>enumerated</b>	164:15 168:25 <b>examined</b> 3:11	<b>expected</b> 30:2 78:11 159:6	<b>E-tran</b> 173:19	<b>federal</b> 9:24 15:22 31:17
18:11 150:10 <b>equivalents</b>	6:11 <b>example</b> 21:8,10	<b>expended</b> 148:25 149:2	<b>F</b>	61:1,2 <b>fee</b> 120:21
35:11 <b>errant</b> 162:6	32:24 44:22 58:7 103:16	<b>expenditures</b> 11:20	<b>face</b> 105:21 <b>faced</b> 106:1	121:12,22 123:11 126:9
<b>errata</b> 175:11,13 175:16 176:1	<b>exception</b> 61:25 <b>excess</b> 96:19	<b>expenses</b> 34:8 34:12 165:8	<b>facilities</b> 170:13 <b>facility</b> 16:24	126:10 127:22 154:4
<b>essentially</b> 23:1 36:8 66:6,14	<b>exclusive</b> 45:16 <b>exclusively</b>	<b>experience</b> 26:4 26:7 51:21	<b>facing</b> 29:1 60:22 94:25	<b>feedback</b> 19:2 26:1
77:22 85:11 124:21	127:1 161:21 <b>excuse</b> 74:10	62:22 89:11 97:23 134:7	<b>fact</b> 45:6 63:18 100:1 104:8	<b>feel</b> 9:4 12:3 74:18 122:2
<b>established</b> 53:25 91:14	170:19 <b>Executed</b> 177:14	142:17 158:6 172:20	113:24 114:12 166:7	<b>fees</b> 126:19 153:21 154:6
114:23 <b>establishing</b>	<b>executives</b> 150:23	<b>experienced</b> 102:15	<b>factor</b> 26:24 43:22 51:1	154:12 165:18 165:18
151:5 172:18 <b>estimation</b>	<b>exercised</b> 48:1 <b>exhibit</b> 2:10,11	<b>expert</b> 11:22 76:20 124:14	<b>factors</b> 30:18 35:18 50:24	<b>felonies</b> 125:23 125:23
131:24 <b>et</b> 1:4,7 3:4,7,20	2:12,14,15,17 10:8,11 76:22	153:9,19 154:8 <b>Expires</b> 177:24	51:2 172:16 <b>facts</b> 115:2	<b>felony</b> 126:2,3,4 160:17,24,25
3:21 6:18,19				

## MIDWEST LITIGATION SERVICES

<b>felt</b> 78:19 104:9	<b>first</b> 17:14 42:11	<b>foremost</b> 74:6	156:13 166:8	<b>furthest</b> 91:6
<b>fewer</b> 103:6,6	44:6 50:19	<b>forenoon</b> 3:12	166:14,15,17	<b>FY18</b> 49:13
119:12,13,13	55:3,14 74:20	<b>form</b> 40:22	168:24 169:3	
119:14 132:10	81:21 90:24	112:25 114:1	169:19	<b>G</b>
132:11,15	93:9 111:16	130:18 139:2	<b>fulfill</b> 15:17	<b>gather</b> 122:1
161:17	130:3 133:3	177:7	50:18 118:20	161:12
<b>figure</b> 165:20	142:16 145:9	<b>formal</b> 18:17,20	166:15	<b>general</b> 14:10,23
<b>file</b> 52:8 78:23	159:6,18 160:5	18:25 45:18,20	<b>fulfilling</b> 74:3	15:12 16:1,6
132:14,15,24	<b>fiscal</b> 16:17	73:14,19 144:1	<b>fully</b> 45:10	18:7 29:17
158:20	33:17 34:8	144:6,8 162:7	148:15	65:25 68:21
<b>filed</b> 49:20	48:9,11,13,16	<b>formally</b> 45:19	<b>Full-size</b> 173:18	112:20 119:3
<b>filing</b> 46:21,23	48:18 49:4,6	57:1 63:4	<b>full-time</b> 35:11	121:23 127:9
133:6,10	49:21 54:4	<b>formation</b> 54:8	36:12	127:18 138:13
175:18	96:18 145:19	<b>former</b> 163:4	<b>Fulton</b> 21:16	140:5,9,13
<b>filings</b> 53:2	148:15,22	<b>forms</b> 45:2	<b>function</b> 139:8	142:6,10,22
<b>fill</b> 50:20	149:1 156:7	<b>formulate</b> 55:4	<b>functioning</b>	146:3 154:14
<b>filled</b> 50:21	159:22 171:12	<b>forward</b> 50:15	118:8	168:1,2
155:25 166:10	171:14 172:8	52:10 97:20	<b>fund</b> 153:11	<b>generally</b> 10:7
166:10,12,25	<b>five</b> 36:15,15	<b>found</b> 117:4,7	<b>fundamental</b>	21:25 29:10
169:9	64:2 99:15,17	137:14	166:2	33:3 41:11
<b>filling</b> 169:20	<b>five-county</b>	<b>Foundation</b> 3:14	<b>funded</b> 120:3	57:2 74:15
<b>final</b> 138:20	134:14	4:5 6:23	148:15	97:21 137:11
<b>finally</b> 9:14	<b>fixed</b> 126:9,10	<b>four</b> 16:10 43:3	<b>funding</b> 22:19	139:3 140:25
<b>financial</b> 172:10	150:18	43:8 130:22	26:18 27:6	140:25 145:23
<b>financially</b>	<b>flat</b> 48:4 120:21	143:19 169:5,6	31:3,4 47:8,24	160:25
174:16	120:23 121:12	171:20	53:6,7 56:20	<b>General's</b> 5:3,8
<b>find</b> 62:24 82:22	121:22 123:11	<b>Fox</b> 86:1	72:3,4 119:9	101:8
95:6 108:23	<b>flexibility</b> 33:15	<b>frame</b> 66:22	120:6 132:7	<b>generated</b> 74:13
125:8 134:21	33:21,23 34:5	<b>frauding</b> 141:21	133:4,13	<b>generating</b> 58:4
134:25 146:19	34:13,14,17,19	<b>free</b> 9:4 12:4	152:18 155:20	<b>getting</b> 34:6
175:9	38:5 172:1,4,4	171:2,3	<b>fundraising</b>	59:16 93:7
<b>finding</b> 54:17,23	172:9	<b>freedom</b> 104:8	153:11	115:17 123:23
115:18 139:23	<b>Floor</b> 4:5	<b>frequently</b> 28:22	<b>funds</b> 21:18 22:1	124:6 127:21
<b>findings</b> 117:15	<b>fluid</b> 23:11	173:5	22:5,5,20,22	142:15 143:5
138:17 166:1	97:24	<b>Friday</b> 83:12	23:1 26:10	164:2 168:15
<b>fine</b> 48:24	<b>focus</b> 151:9	<b>fringe</b> 36:5,12	31:9,17 33:10	168:15
145:20 164:6	<b>follow</b> 41:1	152:19,21	33:24 35:9	<b>give</b> 7:19 32:23
<b>finger</b> 39:13	42:23 79:13	<b>front</b> 62:12	48:2 50:6	38:1 44:16
<b>finish</b> 9:15	148:9	103:14 116:1,4	51:13 120:25	88:7 99:3
<b>finished</b> 130:12	<b>following</b> 15:22	<b>FTE</b> 35:12,15,23	127:25 153:6	120:22 135:14
130:13	44:10 46:22	150:3 169:13	172:2	135:21 156:24
<b>fire</b> 18:15	69:8 77:7 79:9	171:7	<b>funnel</b> 128:7	158:21 170:15
<b>fired</b> 38:14,16	<b>follow-up</b> 47:1	<b>FTEs</b> 35:11	<b>further</b> 64:15	<b>given</b> 30:15
<b>firing</b> 16:2	<b>food</b> 61:4,6	36:10,18 50:14	79:3,10 164:14	32:24 33:10
150:11	<b>foregoing</b> 174:7	50:16 155:8,12	168:21,25	40:17 50:13,16
<b>firm</b> 12:12 53:25	177:6,13	155:17 156:4	174:14	50:17 54:1

## MIDWEST LITIGATION SERVICES



56:10 59:21 63:18 69:21,21 82:15 93:4 96:17 108:18 118:11 123:10 123:11,13 131:1,2,23 133:17 138:9 144:16 161:11 166:8 173:9 <b>gives</b> 33:16 135:4 <b>giving</b> 131:11 <b>go</b> 8:6 26:13 30:18 34:11 43:9,9,15,18 55:14,23 56:1 56:5,5,8 58:1 65:13 83:21 90:22 93:17 100:21 102:23 103:11 109:12 110:1 115:2,5 124:3 128:6 137:22 138:7 142:18 159:16 169:8 171:19 172:16 <b>goal</b> 60:20 <b>goals</b> 131:25 <b>goes</b> 26:22 35:4 56:17 150:12 <b>going</b> 8:8 10:10 16:15 17:7,9 17:22 22:4,17 34:23 50:15 53:6 65:15 73:6 77:12 80:23 83:18 85:7 87:3,14 89:3 91:22 97:12,20 99:8 100:23 103:18 106:6 115:21 115:22 116:6 126:14 130:9	135:13 143:9 144:23 146:10 146:15 147:7 148:4,6,9 153:4 156:21 161:18 162:23 164:7 169:14 173:12 <b>good</b> 7:25 8:1 62:20 64:12 70:1 96:25 121:1,20 <b>gotten</b> 88:17 <b>government</b> 31:18,19,20 36:4 61:21 127:24 <b>governmental</b> 61:24 <b>governor</b> 5:1 7:13 14:20 15:3 47:24 48:1 53:15 101:9 140:13 140:19 142:3 145:9,11,24 146:4,9 147:3 147:12 150:13 <b>governor's</b> 14:22 25:8,21 25:22,24 26:2 26:6 55:18,25 56:8 140:7 147:13 156:11 <b>grant</b> 153:16 <b>grants</b> 31:7,8 <b>greater</b> 160:23 173:8 <b>Greene</b> 20:12 53:4 102:17 <b>Greg</b> 13:5 46:13 46:16,17,24 47:3 67:2 72:22 139:11 <b>Greitens</b> 5:1 7:13 101:9	<b>ground</b> 8:7 <b>Group</b> 115:18 <b>guess</b> 51:1 95:7 140:4,5 142:15 143:14 <b>guidance</b> 79:3 79:10 83:4 <b>guideline</b> 151:23 <b>guidelines</b> 61:1 61:3 <b>guilt</b> 167:13 <hr/> <b>H</b> <hr/> <b>H</b> 2:9 <b>half</b> 41:21,21 <b>hand</b> 10:11 78:13 80:23 133:24 134:13 <b>handed</b> 88:13 <b>handful</b> 21:24 <b>Handing</b> 76:25 89:20 <b>handle</b> 15:16 20:15,18 22:3 23:20 42:21 58:14,17 63:19 76:17 78:20 82:17 85:10 86:11,20 97:22 120:2 127:11 161:21 <b>handled</b> 76:1,14 <b>handles</b> 20:1 21:6 24:7 30:16,17 170:20 <b>handling</b> 22:7 23:18 24:2,12 65:5 76:2 120:9 <b>happen</b> 29:13 45:19 <b>happened</b> 68:14 85:13 <b>happening</b> 86:22 103:16	104:14 112:25 113:12 129:25 138:19 <b>happens</b> 62:16 62:17 74:19 128:21 163:17 <b>happy</b> 88:7 116:5 <b>harassment</b> 45:25 <b>hard</b> 38:6,23 71:14 <b>Harrisonville</b> 94:10 129:4 135:12 <b>hazardous</b> 172:13 <b>Hazel</b> 69:7 <b>Hazel's</b> 69:22 <b>head</b> 9:11 80:12 85:25 97:10 152:8 163:1 <b>heading</b> 89:25 99:18 <b>health</b> 117:19,22 <b>hear</b> 55:22 <b>heard</b> 52:25 115:8,10 <b>hearing</b> 9:3 55:22 62:7,9 62:11 <b>hearings</b> 56:23 <b>held</b> 6:22 14:4 55:9 62:8 149:16 <b>help</b> 31:10 49:8 <b>helpful</b> 67:6 <b>He'll</b> 139:12 <b>high</b> 5:8 45:4,8 104:10 120:17 171:15 <b>higher</b> 34:9 43:7 43:11 126:3 160:22 <b>higher-quality</b> 127:7	<b>highest</b> 52:18 91:2,3,5,6 <b>highly</b> 20:11 <b>high-need</b> 170:2 <b>high-paying</b> 173:5 <b>Hilbrenner</b> 100:8 <b>Hinkebein</b> 77:9 88:14 <b>hire</b> 22:1 27:6,7 27:10 39:22 50:12 52:6,14 61:16 64:11 150:24 155:12 155:18 <b>hired</b> 17:15 18:15 <b>hiring</b> 16:2 52:22,23 150:11 <b>historical</b> 159:14 <b>history</b> 158:6 <b>hold</b> 14:24 78:14 143:9 <b>holding</b> 166:15 <b>hostile</b> 69:11 <b>hour</b> 157:14,14 158:7 <b>hourly</b> 126:9 158:7 <b>hours</b> 3:12 8:16 38:7 53:25 160:22,25 <b>House</b> 55:11,11 55:13,20,22,24 56:6,16 68:6 70:7 <b>houses</b> 55:11 <b>House-passed</b> 56:6 <b>HR</b> 45:24 167:2 <b>human</b> 29:18 <b>hundred</b> 30:25 33:15 34:5
--	--	--	--	---

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334



61:2 93:12 97:1 171:10 172:1 <b>hybrid</b> 72:12	<b>improvement</b> 71:23 <b>inability</b> 80:5 <b>incarcerated</b> 60:4 <b>incentives</b> 172:10,11 <b>incidents</b> 129:25 138:17 162:17 172:3 <b>include</b> 16:14 35:16 41:6 50:6 52:8 79:17 87:6 90:20 160:2 161:9 162:12 165:12 <b>included</b> 69:12 165:9 <b>includes</b> 19:18 26:18 41:24 97:15 165:6,7 <b>including</b> 11:20 14:25 20:22,25 71:15 140:16 <b>incompetent</b> 136:2,16 <b>increase</b> 47:23 48:4 50:14 51:4,11,13,17 51:23,25 52:1 52:18,21 53:1 55:8 102:25 119:8 <b>increased</b> 102:20 132:7 167:5 <b>increases</b> 50:23 <b>increasing</b> 133:3 133:10,13 <b>incrementally</b> 72:2 <b>independ</b> 105:15 <b>independent</b> 25:1,4 120:7 149:20 152:13	<b>indicate</b> 81:25 175:12 <b>indicated</b> 103:18 145:4 <b>indication</b> 105:13 124:12 <b>indigence</b> 62:5 63:24 <b>indigent</b> 15:18 21:15 46:5,8 46:14 47:2 59:24 62:3,24 63:7,14 71:25 85:2 98:20 101:17 104:17 105:15,21 106:1,1,17,20 108:23 109:19 110:10 117:5 117:25 118:9 119:17,17,24 120:7 121:19 128:22 130:8 130:20 132:5 133:12 135:7 139:14,16 168:15 <b>individual</b> 21:12 37:18 38:4,11 38:13 40:16,23 41:24 43:1,23 46:8 57:6 60:1 61:9,14 62:18 62:23 65:4 74:24 78:19 89:9 104:21 106:25 <b>individually</b> 40:14 83:23 <b>individuals</b> 13:4 21:24 106:7 135:5 <b>individual's</b> 100:8 <b>ineffective</b> 135:9 137:7,15 138:2	138:17 139:9 139:23 <b>ineffectively</b> 137:15 <b>inequities</b> 172:17 <b>informal</b> 73:19 <b>informally</b> 57:2 63:5 <b>information</b> 11:19 67:23 137:13 148:1 157:12 158:22 <b>informed</b> 17:24 138:16 167:3 <b>informs</b> 120:15 <b>infrastructure</b> 50:6 <b>infrequent</b> 123:24 124:1 <b>initial</b> 42:11 157:13 <b>initiated</b> 91:18 91:20 97:13 <b>initiatives</b> 16:22 <b>input</b> 54:3 162:7 <b>inquire</b> 61:13 <b>inquiries</b> 64:15 <b>inquiry</b> 170:8 <b>insight</b> 65:1 <b>insist</b> 78:6 <b>insofar</b> 145:22 <b>instance</b> 17:6 20:12 23:22 27:5,8,9,11,24 31:9 42:7 45:7 50:10 53:21 61:9,12,19 103:17 126:2 134:1,12 150:2 158:17 160:23 161:19 165:21 170:16 173:2 <b>instances</b> 40:2,9 63:2 64:9 75:20 76:6	129:1 138:10 170:25 <b>instruct</b> 64:14 146:16 147:8 148:6 <b>instructing</b> 131:12 <b>instruction</b> 148:10 <b>insurance</b> 36:6 36:17 <b>intend</b> 85:18 <b>intended</b> 169:7 <b>intends</b> 97:21 <b>intent</b> 105:17 <b>intention</b> 82:20 <b>interact</b> 28:18 <b>interactions</b> 88:1,3 <b>interest</b> 27:13 <b>interested</b> 173:3 173:7 174:17 <b>interfacing</b> 97:25 <b>internal</b> 39:9 90:16 <b>interruption</b> 19:19 37:15 49:5 69:5 91:19 117:6 125:25 144:17 146:23 168:11 <b>intervention</b> 29:12 <b>interview</b> 45:14 70:16,21 <b>interviewing</b> 71:1 <b>interviews</b> 167:7 167:8 <b>introduce</b> 7:2 <b>invade</b> 147:10 147:20 <b>invention</b> 113:11,13 <b>investigating</b>
---	---	--	--	--

## MIDWEST LITIGATION SERVICES

41:3 <b>investigation</b> 62:19 <b>investigator</b> 35:17 <b>investigators</b> 11:22 35:3 36:20,22 37:1 37:1,2 <b>involve</b> 31:9 34:11 <b>involved</b> 28:11 47:2 170:24 <b>involvement</b> 31:25 54:15 134:16 <b>involving</b> 21:9 66:5 85:21 <b>in-custody</b> 83:14 <b>Irvine</b> 4:10 <b>issue</b> 28:17 29:6 29:11 76:21 103:11 105:25 106:23 123:11 <b>issued</b> 104:1 <b>issues</b> 16:19,20 16:24 25:10 76:7 97:24 106:2 122:21 137:13 142:4 <b>issuing</b> 79:12 <b>item</b> 11:1,17 95:11 <b>items</b> 57:23 <b>IV</b> 43:6 44:12	<b>January</b> 90:4 95:13 <b>Jason</b> 4:4 7:4 8:2 44:15 73:6 91:21 <b>Jay</b> 15:5 <b>Jeff</b> 100:8 <b>Jefferson</b> 5:9 68:5 <b>jeopardy</b> 78:20 167:13 <b>Jeremiah</b> 15:5 <b>jmaune@orri...</b> 4:11 <b>job</b> 14:21 15:6 18:13 57:22 70:14 71:10 107:9,25 108:1 109:9 123:21 140:8 142:18 <b>jobs</b> 173:5 <b>Joel</b> 13:6 22:10 23:14 44:16 59:4,5 64:22 67:3 72:22 74:25 76:18,20 91:23 92:6 93:14 97:12,16 97:17 130:3 154:18 157:16 158:8,21 159:12 165:22 <b>John</b> 5:13 6:24 <b>Johnson</b> 58:25 <b>join</b> 109:11 <b>joining</b> 13:24 14:1,17 33:6 39:25 67:1 140:9 142:21 <b>joint</b> 56:17 <b>judge</b> 2:14 62:4 62:18,23,24 68:2 69:4,4,14 69:15,16,17 80:21 81:15,18 82:1 83:11,12	83:14 84:1 85:9 86:2 87:2 88:8 89:1,2 104:15,19 105:16 106:5 106:13,14,22 108:7,9 122:18 124:2 128:25 129:2,5 135:16 135:20,22 136:3 150:21 150:22,22 <b>judges</b> 64:6 69:2 81:6 85:24 87:12 88:2,6 88:10,15,18 <b>judge's</b> 81:22 168:14 <b>judgment</b> 131:8 <b>judicial</b> 25:1 32:23 88:10 149:21 152:6,8 152:12 <b>judiciary</b> 25:3 98:2 <b>July</b> 48:16,17,19 48:19 171:13 <b>jump</b> 51:6 <b>jumped</b> 51:24 <b>June</b> 13:21 48:16 <b>jurisdiction</b> 21:21 32:1,14 32:14,18 51:19 51:20 52:12 60:1,13 102:24 161:25 <b>jurisdictions</b> 17:2 32:15,25 43:14 52:16 53:7 64:8 65:10 87:6 102:21 133:19 169:19 <b>justice</b> 141:12 141:17	<b>justify</b> 73:4,20 <b>juvenile</b> 17:10 19:18 20:1,3 58:15,25 141:16 <b>jwilliamson@...</b> 4:7	12:4 18:22 22:14 23:6 30:22 31:6,15 32:10,17 34:10 34:16,22 35:25 39:13 40:20 41:4 42:19 44:19 45:23 47:11,13 48:5 49:15 52:17 54:19 57:12 59:11 66:21 68:10,14 71:14 71:16 72:17,20 73:16 78:3 79:25 80:10 82:3,24 83:10 84:19 85:14,24 86:8,21 89:12 90:5 92:1,4,10 93:1 96:16,17 97:13,14 98:4 99:11 100:16 101:20 102:22 104:19 106:5 106:12 108:5,6 112:12,12,13 112:16 113:2,4 113:5,6,8,9,17 113:18,19 114:16,20 116:16 117:21 121:10 122:18 124:11 125:9 126:5,9 128:6 128:8 130:1 133:21,22,22 134:18,23 136:14,15,21 136:24 137:2 138:4 139:1 141:21 143:7 143:25 144:8 145:21,22 146:10 149:4,6 151:20,21,23
<hr/> <b>J</b> <hr/> <b>J</b> 4:8 <b>Jackson</b> 86:14 94:13 <b>Jacqueline</b> 4:18 7:14 175:3 <b>jacqueline.shi...</b> 4:22 <b>jail</b> 60:5,5 84:9 <b>James</b> 4:8 7:8			<hr/> <b>K</b> <hr/> <b>K</b> 1:14 3:10 6:10 6:17 <b>Kansas</b> 20:13 30:24 31:24 41:14,15 <b>Karl</b> 77:9 <b>Kathy</b> 25:13 26:16 27:15,18 31:15 32:10 33:12,19,25 47:12 49:15 53:10 128:13 152:1 153:8,19 154:8,16,17 155:5,7 164:25 165:15 170:11 172:6 <b>keep</b> 17:23 139:5 156:21 <b>keeping</b> 154:11 157:14 158:7 <b>keeps</b> 21:22 <b>Kelly</b> 67:17 68:7 68:9,18,20 <b>Kennett</b> 69:3,6 85:22,23 87:7 87:9 88:4 91:8 93:25 94:2 <b>key</b> 56:24 <b>killing</b> 142:13 <b>kind</b> 18:17 24:23 27:15 28:21 52:2 102:15 131:8 <b>kinds</b> 16:4 41:25 42:6 162:17 <b>know</b> 8:18 9:4	

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

153:15 154:5 154:16 156:17 157:23 163:17 163:19,21 165:20 166:20 166:24 169:2,3 173:7 <b>knowing</b> 45:12 133:20 <b>knowledge</b> 70:5 83:7 107:20 138:3,6 <b>known</b> 144:4 <b>K-E-N-N-E-T-T</b> 69:6	75:7 77:18,20 86:19 87:4 108:24,25 109:6 110:19 111:6,10,12 112:4,8 122:13 129:6,17 134:13,13 135:21 161:11 162:14,15,16 163:14,24 168:8 <b>lawyers</b> 15:16 15:19 22:2,2 23:2,2,12 30:14 65:8,10 69:8 78:1 81:7 83:15,19,20,25 87:3 96:12,19 96:22,23,25 97:8 98:6 102:1,5,8 108:17 109:8 109:15,17 110:13 114:4 120:21 121:5,6 121:13,19 122:12 127:7 127:10 129:23 134:3,4 139:10 161:14,16 173:3 <b>lawyer's</b> 38:4 75:3 <b>lay</b> 71:3 <b>lead</b> 113:13 <b>leader</b> 41:14,15 <b>Lear</b> 25:13 26:16 27:15,18 31:15 32:11 33:12,19,25 47:13 49:15 53:10 128:13 152:1 153:8,19 154:8,16 155:5 155:7 164:25	165:15 170:11 172:6 <b>learn</b> 28:16 <b>learned</b> 125:2 <b>lease</b> 32:16 <b>leave</b> 77:25,25 173:5 <b>leaves</b> 45:12 93:3 <b>leaving</b> 45:15 80:11 134:10 167:9,11 <b>led</b> 69:22 <b>legal</b> 6:25 71:16 87:10 109:20 128:8 173:5 <b>legislative</b> 22:25 47:19 55:7 56:23 70:2 118:12 148:20 156:5 <b>legislators</b> 57:19 <b>legislature</b> 18:7 18:10 22:7,20 25:21,25 28:23 31:11 35:10,22 36:2 47:20,25 51:2 53:16 54:11 56:20,25 59:13 66:19 67:20 68:13,15 72:4 90:20 92:10 150:13 153:7 155:9,19 156:10 <b>legitimacy</b> 57:9 <b>Leslie</b> 69:6 <b>letter</b> 2:12 76:23 77:5,15 78:25 79:2,4,17 80:2 80:9,17 83:5 88:9 95:23 99:20,22 100:1 100:10 103:14 103:21 104:1,4 104:5 162:24	<b>letters</b> 100:12 <b>let's</b> 19:5,13 47:7 92:25 111:18 115:2,5 <b>level</b> 43:11 163:17 <b>levels</b> 43:3,7 171:10 <b>Liberties</b> 4:4 <b>liberty</b> 99:1 <b>license</b> 167:12 <b>life</b> 19:20 20:1 <b>light</b> 62:21 <b>limit</b> 31:12 131:24 <b>limitation</b> 63:5 <b>limitations</b> 35:23,23 36:1 <b>limited</b> 8:23 94:25 131:19 147:24 153:17 157:13 <b>limiting</b> 111:11 <b>line</b> 57:23 163:17 176:5,9 176:13,17,21 <b>lined</b> 33:13 <b>lines</b> 55:15 172:8 <b>lion's</b> 19:16 <b>liquid</b> 61:17 <b>liquidated</b> 61:16 <b>Lisa</b> 46:17 52:5 <b>list</b> 76:15 85:11 91:8 92:23 93:16,17 95:9 <b>listed</b> 20:7 92:21 <b>listen</b> 28:16 78:5 125:10 <b>listening</b> 78:4 101:9 <b>lists</b> 85:2 <b>litigating</b> 49:21 <b>litigation</b> 5:13 5:23 7:1 34:8 34:12 101:7	146:12,25 147:23 148:6 165:8 175:1 <b>little</b> 14:25 19:5 21:5 25:7 29:21 47:7 48:13 49:15 53:13 60:18,22 63:25 72:7,8 73:1 88:25 114:17 127:20 <b>lived</b> 67:3 <b>local</b> 20:13,19 20:22,23 21:11 28:15 29:17,19 31:19 32:1 33:5,7,20 39:18 45:9 46:9 52:4,13 52:24 53:7 64:14,24 66:14 84:9 85:24 88:5 90:11,18 97:25 98:1,1 98:15 113:12 122:18 158:18 162:13 170:9 170:11 <b>localities</b> 142:7 170:12 <b>locally</b> 63:23 69:12 <b>located</b> 95:9 163:10,11 170:21 <b>long</b> 13:18 14:14 14:24 58:13 143:1 <b>longer</b> 86:16 172:25 <b>look</b> 35:18 53:20 81:21 93:15 95:5 158:19 <b>looking</b> 55:18 90:24 109:9 114:18 156:17
--	---	---	---	---

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

157:18 165:1 <b>looks</b> 26:17 30:8 112:18 <b>lot</b> 34:12 40:14 46:20 62:19 109:16 113:23 123:22 133:23 172:23 <b>loud</b> 11:4 160:4 <b>loudly</b> 9:8 <b>Louis</b> 3:15 5:4 5:14,24 6:23 20:12,12 21:1 31:7 85:25 173:2 175:18 <b>low</b> 167:18 <b>lower</b> 34:9 <b>lowest</b> 91:7 <b>luck</b> 70:1 <b>LWOP</b> 19:18,21 20:3 <b>Lynxwiler</b> 86:9	<b>managers</b> 37:11 <b>managing</b> 20:23 <b>mandatory</b> 151:24 <b>manually</b> 158:20 <b>March</b> 90:4 95:13 <b>margins</b> 145:3 <b>marked</b> 10:9,11 76:23 77:1 80:22,24 89:18 89:21 99:6,9 <b>Marsha</b> 46:16 <b>Mary</b> 86:1 <b>match</b> 53:6 <b>materials</b> 92:13 <b>Mathematically</b> 103:8 <b>Matt</b> 7:6 <b>matter</b> 6:17 88:14 116:11 135:11 146:11 146:17 148:5 151:2,3 <b>matters</b> 89:11 143:21 <b>Matthew</b> 4:12 <b>mature</b> 158:6 <b>Maune</b> 4:8 7:8,8 <b>maximum</b> 20:19 <b>Mayer</b> 69:14 <b>McGee</b> 46:18 <b>mean</b> 42:3 45:3 63:13 111:25 114:12 117:21 138:25 145:7 <b>means</b> 22:17 55:23 61:4 72:16 84:7 92:1,6 128:4 152:11 159:16 <b>measure</b> 158:18 <b>measured</b> 121:7 <b>mechanism</b> 66:13 89:13	120:1 128:9,11 132:20,23 133:1 134:2 138:22 162:17 <b>mechanisms</b> 96:4,4 133:11 <b>medium</b> 30:10 <b>medium-sized</b> 41:16 <b>meet</b> 12:14,16 12:19,23 45:10 56:23 131:25 144:11 147:16 <b>meeting</b> 16:7 18:25 25:16 29:24 79:16,18 79:19,21 82:5 83:11 88:12 122:15 143:15 156:9 <b>meetings</b> 17:12 28:16 143:19 144:2,4,5,6 <b>member</b> 168:8 <b>members</b> 16:10 56:24 70:25 78:1 84:2 98:2 105:10 <b>memory</b> 18:10 51:7 52:7,20 118:19 <b>mention</b> 24:25 45:5,7 79:16 145:2 155:11 173:7 <b>mentioned</b> 20:7 47:23 49:12,18 50:2,17 53:8 82:5 87:2,22 104:20 143:14 149:14 159:5 159:13 162:2 171:25 <b>Mermelstein</b> 13:5 46:13,17 47:3 67:3	115:7,8 138:3 139:12,18,25 160:13 <b>Mermelstein's</b> 46:17 <b>message</b> 79:15 <b>met</b> 52:4 <b>method</b> 129:24 <b>meticulously</b> 157:11 <b>metrics</b> 2:15 89:18 90:3,13 95:12 96:20 <b>Michael</b> 1:14 3:10 5:2 6:10 6:17 7:12 92:1 101:6 130:9 148:6 164:18 175:10 176:1 177:5,20 <b>michael.quinl...</b> 5:5 <b>midst</b> 70:22 <b>Midwest</b> 5:13,23 7:1 175:1 <b>million</b> 22:6,15 47:12,20 48:6 48:7 49:11,11 49:17,18,23 55:8 145:4,13 145:13,14 148:2 155:15 155:17 164:1 <b>mind</b> 42:14 73:20 75:12 84:4 101:15 122:7 138:21 164:3 172:20 <b>mindful</b> 153:15 <b>minds</b> 56:15 87:10 <b>minuses</b> 114:9 114:14 <b>minute</b> 17:14 65:14 99:4 <b>minutes</b> 91:9	143:24,25 144:1 <b>mischief</b> 44:8 <b>misdemeanor</b> 52:9 165:21 <b>missed</b> 67:8 <b>mission</b> 18:4 131:21 150:14 <b>Missouri</b> 1:1,7 3:1,7,14,15,19 3:21 4:19,21 5:1,3,4,7,9,14 5:22,24 6:18 6:21,23,23 7:13 9:22 13:13,13,16,19 14:18 20:24 33:14 53:23 54:21 55:2 63:15 65:21,22 66:19 72:6 73:4 75:13 77:8 88:11 90:2 91:15 98:21 99:21 101:7,8 105:21 106:2,20 109:19 114:12 115:19 117:5,9 117:19 118:25 119:7 121:18 128:3 130:20 132:6 133:13 133:17 149:19 157:7 174:22 175:3,6,7 176:2 <b>mistaken</b> 24:7 32:2 154:2 155:5 <b>mitigation</b> 20:4 <b>MO</b> 3:16 174:4 175:18 <b>moment</b> 8:20 77:13 <b>Monday</b> 82:25
<b>M</b>				
<b>Main</b> 4:9 <b>maintain</b> 73:14 73:17 <b>majority</b> 142:10 <b>making</b> 26:13 51:2 64:5,7 71:17 72:2,5 87:7 129:23 131:14 144:25 <b>managed</b> 20:20 <b>management</b> 14:13 19:14 28:18 29:14 30:11 79:6,21 82:5 85:4 88:6 95:24 98:13 140:10 163:1,2 <b>manager</b> 38:5 41:12 71:16 77:22,23 80:10 <b>managerial</b> 122:12				

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

<b>Monett</b> 94:19	<b>name</b> 6:24,24	23:12 30:17	<b>notify</b> 98:13,16	90:22
<b>money</b> 22:19	8:2 19:23 28:9	55:4 66:6 74:4	<b>notwithstandi...</b>	<b>nuts</b> 92:4
35:8,8 49:25	29:16 56:4	86:16 96:7	120:10 129:7	
50:17,20	68:2 69:7 77:9	97:14 98:12,18	171:19	<b>O</b>
121:15 124:3,6	100:8 125:7	124:8 141:10	<b>November</b> 80:12	<b>OA</b> 151:22
128:2,7 145:21	176:1,2 177:11	141:13 142:5	<b>nuance</b> 126:11	172:2,4
145:23 148:24	<b>named</b> 13:8	142:10,21	126:13,15	<b>oath</b> 8:12
155:18	69:18	157:14	151:18 155:3	<b>object</b> 8:22 73:7
<b>months</b> 14:16	<b>natural</b> 141:4,6	<b>newsletter</b> 2:18	161:7	130:10 146:11
92:23 93:9	<b>necessarily</b>	99:6,12	<b>nullify</b> 66:22	147:8 148:4
<b>morning</b> 7:25	39:15 75:17	<b>Niehaus</b> 5:13	<b>number</b> 6:19 8:8	<b>objection</b> 131:15
8:1 101:10	89:7 90:22	6:25	11:1,17,18	131:16 134:22
103:10	127:2 162:23	<b>Nifong</b> 4:20	17:2 18:2	<b>objective</b> 42:17
<b>mother</b> 113:10	<b>necessary</b> 9:5	175:5	20:14,18 24:8	42:22 55:3
<b>motions</b> 46:23	27:3 33:24	<b>nine</b> 20:18 24:4	24:11 26:20	60:25 158:11
<b>motivated</b> 77:14	131:23 164:19	24:7	27:1 29:13	<b>objectively</b> 55:3
<b>motivating</b> 51:1	177:9	<b>Nixon</b> 15:5	30:9,15,16	<b>obligation</b> 38:4
<b>move</b> 33:24	<b>necessity</b> 113:10	145:24	31:12 33:4	38:11 73:25
52:10 55:24	113:11	<b>nodding</b> 9:10	35:2,18 36:10	74:4,7 75:4
93:2 96:6,10	<b>need</b> 8:16,18	<b>Nolle</b> 160:3	36:18 38:7,23	78:22 96:1,10
98:10 116:6	33:19 34:13	<b>nonconflicted</b>	39:13 40:20	98:10 104:8
150:2 171:2,7	35:6,7,12 40:9	106:16 107:4,8	42:25 43:18	107:3,7 127:10
172:4	41:24 45:24	107:11,17	44:4 45:2	168:4
<b>mshahabian@...</b>	54:7 58:21	<b>nonmanagem...</b>	47:11 51:8	<b>obligations</b> 36:8
4:15	59:14 74:18	43:4	52:1 54:4	71:6,15,15
<b>MSPD</b> 2:12	90:21 101:25	<b>normal</b> 28:23	55:15 57:7	79:10 98:5
11:10,19 12:16	102:4,8 108:4	<b>normally</b> 90:15	58:4,22 64:4	<b>obstacle</b> 169:23
12:23 24:22	116:13 129:21	<b>north</b> 5:14,23	65:8 70:4	169:23
25:14 40:5	133:21,22,22	51:8 96:18	86:22 88:8,16	<b>obstacles</b> 112:14
54:15 56:7	137:21,22	102:5	92:5,5 96:16	<b>obtain</b> 170:9
62:19 63:11	143:12,20	<b>Northeasterne...</b>	96:17 97:7	<b>obviously</b> 21:10
66:4,25 67:4	151:17 157:1,4	144:23	99:14 102:11	44:7 134:25
72:12,18 74:14	167:11,14	<b>notarized</b>	108:16,19	<b>occasions</b> 135:2
76:23 77:8	169:24 171:15	175:16	117:14,15	<b>occupied</b> 154:24
95:15 109:9	171:20,21	<b>notary</b> 175:14	118:11,18	<b>occupying</b>
118:17 127:5	<b>needed</b> 71:17	177:23	119:22 125:16	166:22
135:4 139:10	87:7,9 96:13	<b>note</b> 149:7,18	131:23 133:17	<b>occur</b> 17:11
166:8 168:9,9	<b>needs</b> 33:25	<b>noted</b> 131:17	150:9 155:8	129:4 137:20
<b>MSPD's</b> 25:8	35:15 50:23	<b>notes</b> 145:4,5	156:23 160:15	<b>occurred</b> 21:21
<b>multiple</b> 24:11	<b>neither</b> 174:12	149:19 155:6	160:19 161:9	51:4 80:8 82:6
65:10 171:9	<b>net</b> 97:14	161:2 164:1	164:2 165:2	138:10
<b>M-A-Y-E-R</b>	<b>network</b> 50:7	<b>notice</b> 2:11 10:3	170:18,20,25	<b>occurrence</b>
69:14	<b>never</b> 8:5 49:19	10:8,16 144:16	<b>numbers</b> 10:22	123:25 124:1
	66:24 67:8	144:21	43:16 53:17	<b>occurring</b> 129:7
<b>N</b>	128:10 152:11	<b>noticed</b> 16:7	54:16,18 55:5	<b>occurs</b> 28:22
<b>N</b> 2:1 4:1 175:17	<b>new</b> 4:6,6,14,14	<b>notification</b> 34:1	56:11,14 57:10	62:11 122:19

## MIDWEST LITIGATION SERVICES



128:25	67:24,25 69:4	175:17	45:18 57:22	162:1 163:8
<b>OCDC</b> 78:13	69:6,8 70:22	<b>officers</b> 52:23	59:3,13 60:16	<b>once</b> 25:19
<b>October</b> 1:16	72:19 73:1,13	<b>offices</b> 17:1 19:8	63:4 64:17	64:17 72:22
2:18 3:11 6:15	74:24 75:18	20:10 21:3	67:6,13 73:10	<b>onerous</b> 66:25
99:6 175:2,10	76:1,2,10	24:10 26:11	75:20 82:8	<b>ones</b> 39:20 57:17
176:3	77:10,11 78:13	27:14 28:15,25	84:11 91:16,24	87:22
<b>odd</b> 20:9 135:23	79:11 80:13	29:5 30:11	92:8 93:13	<b>one-year</b> 51:6
<b>offender</b> 34:13	81:5 82:14	31:4 32:21	97:18 100:9	<b>open</b> 144:3
<b>offense</b> 125:22	83:9,19,20,25	33:5 39:9,14	101:14 102:10	<b>operate</b> 96:14
168:7	85:3,16,22,23	41:12,15 53:5	105:4 108:3,7	<b>operating</b> 12:13
<b>offer</b> 172:10	85:25 86:10,14	64:14 65:4,7	111:15 112:7	15:10 16:16
<b>offhand</b> 126:6	86:20 87:9	67:19 73:17	113:20 115:15	47:9 49:16,22
<b>office</b> 5:3,8 13:2	88:22 90:11,13	79:1 85:17	121:25 122:8	93:10 152:22
13:25 14:2,19	92:20 93:2,4,5	90:18 91:13	122:10 123:10	<b>operation</b>
14:22 15:4,8	94:1,2,3,5,6,8	92:24 93:10,11	124:20 126:12	148:21
17:14,20 18:19	94:9,12,14,16	93:16 95:22	126:21 127:19	<b>operational</b> 25:4
19:6,8,10,23	94:18,20,23,25	96:14 97:25	128:15,19	25:10 149:15
20:13,17,19,22	95:1,7,14,18	98:1,17 111:20	132:19 133:9	150:4,5 151:10
20:23 21:6,11	97:21 98:15	112:5,7 153:3	136:4 137:4	<b>operationally</b>
21:11,15,16,17	99:21 101:8,11	154:25 163:18	138:16 140:4	149:21
21:17,23 23:22	101:18 102:1	166:13 169:8	140:11 141:1	<b>operations</b>
24:4,7,9,18,23	103:18 105:21	169:19,24,25	141:14,22,25	17:19,22
25:9,21,22	106:3 109:10	170:3,7 171:9	142:20 143:1,5	<b>opine</b> 54:13
26:2,6,19,21	109:14 113:12	171:15,21,24	144:1,5 145:14	<b>opinion</b> 53:1
26:25,25 27:3	119:15,16,23	172:11	145:17 146:13	167:9
27:7,9,11,16	120:6,9 122:18	<b>office's</b> 24:21	147:2,6,25	<b>opportunities</b>
28:17,18 29:3	122:24 127:15	<b>official</b> 13:15	148:8,12 149:3	153:16
29:7,14,15,16	128:6 129:12	<b>officials</b> 24:22	149:8,14,18	<b>opposed</b> 9:10
29:17,19 30:15	132:7,21	100:13	150:1,18	22:2
30:16 31:5,7	133:14 135:8	<b>oftentime</b> 30:4	151:13 152:15	<b>option</b> 108:13
31:21,23 32:4	136:1,7,20,21	<b>oftentimes</b>	152:23 153:14	108:20
33:11,23 34:1	137:6,12	128:24	153:23 154:20	<b>options</b> 77:21
35:14 36:21	138:18 139:8,8	<b>oh</b> 11:5 135:22	155:22 156:25	<b>oral</b> 57:5 77:7
39:16 41:13	139:21 140:7	<b>okay</b> 9:2,5,6,18	158:4,9,23	77:16 78:5
42:2,2,23 44:8	140:12,19	9:19 10:2,5,10	159:11,13	103:12
44:25 45:9	142:16,23	10:20 12:5,6	160:3 161:1	<b>order</b> 15:17
46:4,9,16,25	146:4 149:16	12:23 13:1,7	162:1,9,20	25:23 58:17
47:8 50:11	150:3 152:6	13:11 14:14,21	163:13,20,23	74:11 84:21
51:22,24 52:18	154:24 156:11	21:5 23:10,16	164:17 165:23	96:13 130:6
52:25 53:2,3,4	158:18,25	24:10,19 25:7	167:24 173:10	136:16 172:11
53:4 58:9,11	161:13,18	26:1,9,13	<b>old</b> 12:10	<b>ordered</b> 136:13
58:12,13 59:22	162:12,13	27:14 28:11	<b>Olive</b> 3:14 5:4	<b>ordering</b> 91:1,4
60:14 61:11	163:1 169:7,11	29:25 31:23	<b>Oliver</b> 69:18,25	<b>orders</b> 173:18
62:13 64:25	169:14,15	32:12 34:24	70:5	<b>ordinarily</b> 21:13
65:3,3,6,7,12	170:6,19,21,24	35:5 36:19	<b>ombudsman</b>	<b>ordinary</b> 28:4
66:5,11,14,17	171:7,20	39:8 44:1,18	46:12,14 47:5	138:22 162:5

## MIDWEST LITIGATION SERVICES



<b>org</b> 150:17	<b>page</b> 2:2,10 8:7	31:7	95:16 97:1	144:5 162:5
<b>organization</b>	99:15,17,19	<b>participating</b>	159:16,17,25	<b>phrase</b> 113:10
31:17 152:17	175:11,14,17	23:7	160:1 167:4,6	160:7
<b>organizational</b>	176:5,9,13,17	<b>participation</b>	171:10 172:1	<b>phrased</b> 73:7
20:5 27:23	176:21	16:22	<b>percentage</b>	<b>phraseology</b>
<b>origin</b> 125:6	<b>paid</b> 108:25	<b>particular</b> 13:1	51:12 91:3,5	124:25
146:6	126:19 150:25	24:3 29:7	<b>performance</b>	<b>physical</b> 61:15
<b>original</b> 2:20,20	152:21 154:6	40:18 64:18,19	18:13	<b>picked</b> 79:4
175:10	165:18,19	65:5 73:5	<b>performed</b>	86:17 162:5
<b>Orrick</b> 4:9,13	<b>painting</b> 172:20	74:16,21 95:1	53:24 55:4	<b>picking</b> 79:5
<b>outcome</b> 174:17	<b>panel</b> 50:3	103:17	<b>period</b> 14:8 90:3	<b>picks</b> 122:19
<b>outcomes</b> 121:1	122:13 129:15	<b>particularly</b>	95:13 109:13	<b>place</b> 33:7 71:14
<b>outside</b> 23:16	129:15	34:11	117:14 119:4	128:12 132:12
24:22 31:13,16	<b>paper</b> 114:19	<b>particulars</b>	138:9,11	154:10 157:21
90:17,19	<b>paragraph</b>	112:17	140:21 141:3	<b>placed</b> 127:17
119:16,25	115:16 116:2	<b>parties</b> 174:13	143:3,8	135:8
153:18	116:19,21	174:16	<b>perjury</b> 177:12	<b>placing</b> 85:2
<b>outweighed</b>	<b>paragraphs</b>	<b>party</b> 146:14	<b>permission</b> 38:2	<b>plaintiffs</b> 1:5,15
163:6	115:22	<b>pass</b> 55:11,13	<b>permitted</b> 11:10	3:5,21,22 4:3
<b>out-of-custody</b>	<b>paraphrasing</b>	68:15	<b>person</b> 25:11	6:2,12 7:5,7,9
83:16	77:20 168:5	<b>passed</b> 15:12	27:4,10 38:6	8:3
<b>overall</b> 149:3	<b>parole</b> 19:21	52:21 55:20	53:11 61:19	<b>Plank</b> 46:16
<b>overarching</b>	20:2	155:19	62:2,3 64:18	<b>plans</b> 68:14
53:20	<b>part</b> 12:24 15:9	<b>pay</b> 18:4 36:16	64:19 92:6	<b>play</b> 17:19,21
<b>overhead</b> 32:5,7	45:23 50:14,15	134:2 150:16	130:3 135:24	44:9 53:20
165:6,9	52:6 55:10	151:14 172:13	135:25 144:12	59:7 161:19
<b>overloaded</b>	56:11 57:4	<b>paying</b> 32:4,6,17	166:22 169:25	<b>played</b> 86:24
91:11,12 92:22	72:24 88:11	141:23,24	170:1	<b>plead</b> 159:17
96:8	91:14 98:25	<b>PCR</b> 17:10	<b>personal</b> 51:20	<b>pleading</b> 114:19
<b>override</b> 145:10	107:6,9,13	19:17 77:10	<b>personnel</b> 16:19	115:3 132:4
<b>overrode</b> 22:20	121:11 122:13	<b>penalty</b> 34:12	102:19	<b>pleadings</b> 115:3
47:25	127:5 132:17	177:12	<b>persons</b> 90:19	<b>please</b> 7:2,16
<b>override</b> 62:4	148:20 155:16	<b>pending</b> 3:18	<b>person's</b> 64:16	8:18 9:3,8,9
<b>oversee</b> 30:13	155:20 157:12	146:11	<b>perspective</b>	11:4 12:3 14:7
<b>overseeing</b> 98:7	159:18 160:1	<b>pension</b> 36:6	47:14 159:15	105:23 111:2
<b>oversight</b> 41:23	160:21 163:11	<b>pensions</b> 36:17	<b>perspectives</b>	115:23 175:9
122:11,12	<b>partial</b> 104:16	<b>people</b> 13:1 36:8	170:18	175:12,16
<b>owned</b> 171:1	105:14,24	36:15,16 64:5	<b>pertaining</b> 146:1	<b>plight</b> 130:20
<b>Oxenhandler</b>	108:13 110:5,8	168:6 172:12	<b>pertains</b> 75:2	<b>pluses</b> 114:9,14
68:2	112:10 113:24	<b>pep</b> 29:22	<b>pervasive</b> 45:3	<b>point</b> 44:15
<b>o'clock</b> 3:12,13	114:1 130:7,19	<b>percent</b> 30:25	<b>petition</b> 115:23	56:15 59:21
69:14	131:8	33:15,23 34:5	116:4	62:25 63:9
<b>P</b>	<b>partially</b> 157:15	43:17,20,21	<b>phone</b> 29:19	68:21 84:17
<b>P</b> 4:1,1	<b>participate</b>	51:7,12,24	79:5 85:21	86:23 88:16
<b>packets</b> 92:12	129:19,20	52:1,20,21	88:8,15,17	96:25 109:13
	<b>participates</b>	61:2,5 93:12	122:19 143:21	124:2 148:25

170:12 171:17 <b>pointed</b> 118:18 171:21 <b>points</b> 51:12 <b>police</b> 50:10 <b>policies</b> 11:8 33:1,5,7 39:9 39:11,14,15,19 44:10 <b>policy</b> 32:21 33:4 39:21 73:2,9,14,17 73:20 75:18 <b>political</b> 68:4 <b>Poplar</b> 86:10 <b>populated</b> 20:11 20:17 93:20 <b>position</b> 14:4,24 20:20 27:2,9 27:10 28:14 35:16 62:4 69:23 76:19 77:19 93:4,5 109:10 119:6 121:17 124:10 142:2 147:13 151:20 166:23 166:24 167:1 <b>positions</b> 16:9 43:4 50:13,13 50:19,20,21 56:17 155:18 171:18,22 <b>possibility</b> 85:1 130:7,18 <b>possible</b> 71:8 106:11 107:17 108:6 109:5 <b>Possibly</b> 129:14 <b>post</b> 61:12 64:6 64:10 77:10 <b>posted</b> 64:2 <b>posting</b> 171:14 <b>posts</b> 61:10 <b>post-conviction</b> 138:23 139:1,7	139:15,20 <b>potential</b> 113:23 <b>potentially</b> 112:11 <b>poverty</b> 61:1,3 <b>practical</b> 66:10 <b>practically</b> 85:6 162:20 <b>practice</b> 15:20 16:6 28:5,5,15 28:19 37:9 38:17 39:24 43:15 62:10,25 78:15 80:5 98:7 108:17 123:25 133:18 151:2 163:12 <b>practices</b> 21:20 77:9 107:21 <b>practicing</b> 38:17 162:21 <b>practitioners</b> 120:16,18 <b>Pratt</b> 66:2 <b>preceded</b> 54:15 58:18 66:4,9 158:1,2 <b>precedent</b> 172:18 <b>precise</b> 96:16 143:7 164:25 165:15 <b>precisely</b> 100:11 <b>precision</b> 128:2 <b>predated</b> 157:17 <b>Preddey</b> 52:5 <b>predecessor</b> 67:16 <b>predict</b> 34:7 <b>preferably</b> 115:7 <b>preference</b> 109:11 <b>preferred</b> 40:1 <b>prejudice</b> 136:25 137:18	147:22 <b>prejudiced</b> 137:8 <b>preparation</b> 12:17,21,24 114:18 <b>prepare</b> 12:6,9 25:23 <b>prepared</b> 10:21 11:13,24 12:3 25:12 <b>prepares</b> 25:14 26:21 <b>present</b> 5:12 51:5 83:17 96:1 166:14 <b>presenting</b> 88:10 101:15 <b>presently</b> 96:8 124:18 <b>presents</b> 17:2 120:8 128:20 <b>preside</b> 114:23 <b>presiding</b> 69:4 69:15 81:15 88:10 <b>presume</b> 154:9 <b>pretrial</b> 60:4 84:8 <b>prevents</b> 26:6 <b>previous</b> 12:13 19:7 54:4 70:3 74:1,23 <b>previously</b> 52:9 58:16 111:9 128:21 139:16 141:11 <b>primarily</b> 44:7 45:9 <b>primary</b> 26:23 54:8 168:18 <b>principal</b> 101:11 <b>prior</b> 13:24 14:1 14:5,11,17 26:17 33:5 53:9 63:25	67:1 80:2 82:2 83:1 90:10 98:25 99:1 136:5 137:13 138:19 140:4,8 140:12 141:1,6 141:9 142:8,12 142:18 156:14 <b>priorities</b> 53:19 59:8 <b>prioritize</b> 29:8 57:23 59:14 83:13 <b>prioritized</b> 59:15 <b>private</b> 21:20 22:18 23:2,12 31:17 50:2 72:14 83:15,15 84:2,13 87:4 87:14,17,23 88:21,22 89:3 89:6,10,13 98:2 105:11 106:18,18 107:5,12,18 108:17,24,24 114:4 120:7 121:5,21 122:20 123:7 123:20 127:16 128:17 131:20 134:2,13 135:17 142:25 153:11 <b>privately</b> 56:24 <b>privatization</b> 68:16 70:1,8 71:7,21 72:9 75:7 104:16 105:14,24 107:22 108:13 110:5,9 112:11 112:18 113:1 113:24 114:2 130:7,19 131:9	134:20 <b>privatize</b> 67:21 68:14 <b>privatized</b> 72:13 107:23 <b>privatizing</b> 68:23 <b>privileged</b> 92:14 <b>privity</b> 32:15 <b>pro</b> 170:23 <b>probably</b> 34:6 42:22 65:2 72:23 91:22 123:24 124:9 <b>probation</b> 125:23 <b>problem</b> 45:3 71:2 95:3 101:24,24 102:20 105:20 105:25 106:19 118:25 119:8 127:21 132:6 133:4 <b>problems</b> 17:3 94:25 166:2 <b>procedurally</b> 85:6 <b>procedure</b> 9:24 163:12 <b>procedures</b> 11:8 42:23 <b>proceed</b> 37:23 68:13 <b>proceeding</b> 7:20 62:12,14 77:13 136:1 138:24 <b>proceedings</b> 143:23 <b>process</b> 11:9 23:4 25:13 45:20 53:11 55:10,17 56:19 58:2 65:2,3 70:14,21 86:6 99:1 126:23
---	---	--	--	--

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

144:10 156:5 160:21 162:7 168:9,12 <b>produced</b> 3:11 6:11 <b>professional</b> 13:24 15:21 30:13 37:10,11 37:12,24 41:1 42:18 74:12 75:16 78:21 79:14 96:2 98:7 104:12 <b>program</b> 22:8 22:11,13,13 23:8,12,13,17 46:12,14 47:6 47:21 50:1,3 110:5 112:10 113:25 114:8 122:13,14,14 129:16,19,22 131:8,22 134:16 137:6 149:7 163:9 <b>programs</b> 114:10 141:12 141:16 142:6 153:12 <b>prohibits</b> 40:20 41:5 <b>Project</b> 53:24 91:15 <b>projected</b> 145:25 167:5 <b>projections</b> 16:19 <b>prolong</b> 164:18 <b>promote</b> 43:11 <b>promoted</b> 44:3 <b>promotion</b> 42:5 44:2,6 <b>promulgated</b> 66:23,25 68:1 125:21 154:2 158:25 159:9	<b>promulgation</b> 66:3,5,13 <b>properly</b> 118:8 <b>property</b> 61:15 <b>proportion</b> 11:21 <b>proposal</b> 26:2 53:11 57:5 71:21 72:10 156:7 <b>proposals</b> 27:15 113:23 134:20 <b>propose</b> 16:13 59:9 <b>pros</b> 160:3 <b>prosecute</b> 132:24 <b>prosecution</b> 59:22 <b>prosecutor</b> 52:4 52:13 69:3,17 69:18 <b>prosecutors</b> 52:7,14,23 57:11,15 70:9 102:18 103:1,2 132:13,15 133:9 <b>prospect</b> 70:13 <b>prove</b> 18:4 <b>proverbial</b> 71:13 <b>proves</b> 43:13 <b>provide</b> 9:23 27:15 34:1 56:22 58:21 59:17 66:13 74:10 78:16 79:3,9 84:21 89:4 92:12 98:8 106:6 110:9 114:4 115:23 121:5 121:19 122:11 124:7 156:13 166:13	<b>provided</b> 40:4 71:17 83:4 88:15 112:17 117:5 121:21 123:1,6,7 127:15,16 135:19 154:25 155:2,4 156:10 <b>provides</b> 54:2 <b>providing</b> 32:4 35:9 71:24 115:20 117:24 118:8 <b>provision</b> 126:18 <b>proximity</b> 173:4 <b>public</b> 4:17,19 7:15 9:22 12:19 13:14,17 13:19,25 14:1 15:7,12,24 16:3,8,11 17:14,15 18:7 19:12 21:14,15 21:22 25:5,15 25:17 33:14,22 39:4,25 40:12 40:16 41:10 42:1 43:5,23 44:3,21 45:20 52:22 59:7,22 60:2,14 62:1 62:13 63:10 64:3,18 65:4 65:22 67:21 70:21 73:1,4 73:20 74:10,17 75:12,21 76:6 76:15 78:4 83:9 87:8 90:2 99:21 104:6 105:8 107:5,11 107:18,20 114:13,21,22 115:19 117:8 117:12,20	118:7,25 119:7 120:15 121:2 121:18 126:25 127:1,4 137:14 139:17,24 140:5 141:12 142:4,4,16,19 142:23 146:1 148:2 149:15 149:19 150:15 156:8,9 157:13 158:10 164:20 165:25 167:19 175:3,14 177:23 <b>pull</b> 16:12 26:17 128:24 158:19 <b>pulled</b> 12:11 15:11 54:18 148:20 157:4 <b>pulling</b> 38:19 <b>pulls</b> 53:17 <b>purports</b> 99:23 <b>purpose</b> 52:22 112:21 168:19 <b>purposes</b> 22:7 22:16,23 47:20 64:7 90:16 124:17 131:20 158:15 <b>pursuant</b> 16:8 71:19 74:25 75:15,17 137:6 174:8 <b>push</b> 128:24 <b>put</b> 27:4 39:12 49:25 55:8 78:20 122:3 140:23 145:9 157:21 <b>putting</b> 22:16 <b>p.m</b> 105:10 164:8,11 173:13,24	<b>quali</b> 62:1 <b>qualifications</b> 61:5 133:25 <b>qualified</b> 62:1 89:14 <b>qualify</b> 60:9 61:3,6,7 63:13 64:3,8,18 <b>quality</b> 46:6 121:4 122:11 122:21,25 123:15 <b>quarterly</b> 16:1,7 143:15,19 <b>question</b> 8:24 9:3,5,7,15 27:18 29:25 31:3 32:11 35:8 47:3 51:21 59:12 73:7 88:20 93:14 97:2,16 97:17 102:3 103:23 105:23 106:9 111:2,22 112:1 114:17 116:7,25 118:5 124:15 128:14 128:20 130:10 130:13,21 131:15 132:2 133:2,3 137:4 145:20 148:5 148:17 149:9 149:10 152:21 152:23 153:4,9 159:3,19 160:1 172:7 <b>questioning</b> 57:13 <b>questions</b> 2:2 7:24 8:8,10,22 11:13,25 12:2 27:20 39:22 40:12 53:18 59:11 62:18
--	---	--	---	--

---

**Q**


---

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

79:2 100:16,17 101:4 111:5 139:13 145:3 146:16 147:4 164:14,16,17 165:23 168:21 168:24 169:1 <b>quick</b> 8:6 <b>quickly</b> 34:10 <b>Quinlan</b> 2:4,6 5:2 7:12,12 10:14 19:22 43:19 48:9,12 48:15,18,22,25 49:7 67:7,10 67:13 84:4,7 84:11 86:3 95:11 97:7 100:16 101:4,6 105:2,4 115:24 116:2,5,10,15 116:20,23 117:2,7 126:5 128:15 130:12 130:15,17,23 131:4,7,12,16 134:24 144:18 144:22 145:2 146:13,18 147:2,6,9,11 148:9 152:3,4 154:20,23 163:25 164:12 168:23 169:1 173:10,20 <b>quite</b> 135:11 <b>quote</b> 11:7,18 105:4 167:25	57:15 103:11 <b>raises</b> 37:18 122:20 134:13 <b>raising</b> 133:24 <b>Ramsey</b> 5:7 7:10 7:10 <b>ran</b> 141:16 <b>ranking</b> 90:25 91:11 <b>rankings</b> 92:18 <b>ranks</b> 95:14 <b>rare</b> 34:15 35:19 <b>rarely</b> 56:1 62:17 <b>rata</b> 170:23 <b>rate</b> 125:19,20 126:3 167:4 <b>rates</b> 126:6 <b>rationale</b> 36:1 <b>raw</b> 160:15 <b>RDR/CRR</b> 5:22 6:4 175:23 <b>reach</b> 138:6 <b>read</b> 10:7 11:1,4 11:7,16,18 82:11 99:13,18 105:5 175:12 176:6,10,14,18 176:22 177:6 <b>readily</b> 92:15 <b>reality</b> 173:1 <b>realize</b> 40:13 <b>really</b> 17:25 72:11 108:3 116:6 <b>Realtime</b> 3:17 174:6 <b>reason</b> 8:19 16:25 34:19 36:9,18 39:19 45:15,16 50:8 62:20 64:15 72:1 115:15 121:1 123:9,21 166:10,21 176:7,11,15,19	176:23 <b>reasonable</b> 54:12 127:12 <b>reasons</b> 34:20 98:15 122:2 167:9,15 <b>reassignment</b> 136:19,19,21 <b>reassurance</b> 104:6 <b>recall</b> 57:14 70:19 72:11 79:19 100:9 <b>recapture</b> 126:19 <b>receive</b> 10:2 19:2 22:5,15 22:22,25 25:4 26:1,3,5 31:4 31:16,21 46:4 48:4 53:5 60:4 66:15 68:24 78:24 85:10 99:13 120:25 127:3,4,4,13 127:25 139:4 168:8 <b>received</b> 18:20 18:25 47:9 48:6,7 49:17 49:19,19 51:11 51:14 52:2 54:17 55:7 69:11 71:18 73:24 81:24 82:1,24 83:1 86:8,13 87:11 99:12 104:21 104:24 105:6 121:16 135:9 155:12 172:3 <b>receives</b> 60:2 <b>receiving</b> 61:21 61:24 134:16 <b>recess</b> 65:17 100:25 164:9	<b>recognize</b> 77:2 80:25 82:11 89:22,23 99:10 <b>recollection</b> 24:6 24:8 31:1 41:8 42:12 48:8 157:10,19 165:5 <b>recommend</b> 25:24 132:12 132:20,24 133:1,11 <b>recommendati...</b> 55:19,25 56:6 56:9 <b>recommendati...</b> 25:24,25 <b>reconcile</b> 56:18 152:11 <b>record</b> 6:14 7:3 9:17 11:2 65:14,16,18 100:22,24 101:1 109:23 116:11 145:7 162:7 163:12 164:8,10 173:11,12 <b>recorded</b> 143:23 158:6 159:23 <b>recording</b> 163:5 163:6 <b>recordkeeping</b> 158:14 <b>recruit</b> 169:20 170:4,5 171:16 172:22 <b>recruiting</b> 171:25 172:23 <b>reduce</b> 101:23 101:23 102:11 102:13 119:22 <b>reduced</b> 174:11 <b>reduces</b> 59:19 <b>reentry</b> 141:17 <b>refer</b> 19:6 29:15	65:7 112:4 115:6,22 116:14 124:14 126:20 128:1 128:25 139:11 139:18,25 146:5 155:5 157:16 158:8 159:12 164:25 165:15,22 <b>reference</b> 41:11 88:9 <b>referred</b> 20:14 103:13 113:9 116:19,20,21 116:24 120:20 132:4 166:7 <b>referring</b> 104:25 105:2 160:7 <b>refund</b> 127:22 <b>refusal</b> 70:13 73:2,8,14,17 97:21 <b>refuse</b> 11:11 37:6,6 38:2 66:6 68:22 73:21 75:4,13 75:22 <b>refused</b> 76:7,16 170:14,17 <b>refusing</b> 38:15 68:13 71:11 73:4 75:5 85:18 95:22 <b>regard</b> 97:19 128:16 <b>regarding</b> 11:19 26:2 44:22 46:5 68:19 81:6 104:1 111:5 139:5 146:16 147:4 170:13 <b>regardless</b> 78:11 115:2 120:23 <b>Registered</b> 3:16
---	--	---	---	--

**R**

**R** 4:1,12 5:7  
175:10 176:1  
177:5,20  
**raise** 57:19  
153:6  
**raised** 54:24

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

174:5 <b>regular</b> 42:19 <b>regularly</b> 17:11 39:21 45:5 139:1 <b>regulatory</b> 89:10 <b>reintroduce</b> 101:5 <b>reiterate</b> 79:3 <b>relate</b> 169:7 <b>related</b> 11:14 53:18 54:24 70:1,4,11 77:8 77:17 79:13 135:3 174:12 <b>relates</b> 15:23 37:13 40:19,24 46:3,22 64:4 66:3 76:9 122:20 126:14 129:20 145:25 165:3 <b>relating</b> 11:8 <b>relationship</b> 19:9 25:2,8 111:5 <b>relative</b> 64:9,11 174:15 <b>relayed</b> 79:15 <b>relevant</b> 8:9 16:21 <b>relief</b> 59:18 77:10 78:16 138:23 139:1,2 139:2,4,8,15 139:20 <b>relocate</b> 93:4 <b>remained</b> 169:4 <b>remarks</b> 57:5,5 <b>remember</b> 8:11 39:17 57:17,18 67:10,11 71:12 71:20 79:5 82:25 83:2 150:21 153:2	159:14 <b>remembering</b> 161:2 <b>removal</b> 137:1 <b>removed</b> 136:4 <b>removing</b> 136:16 <b>render</b> 177:9 <b>rendered</b> 137:15 <b>repeat</b> 9:5,5 <b>rephrase</b> 9:4 <b>replaced</b> 92:23 <b>report</b> 15:24,25 16:3 17:4,5,7,9 27:21,24,25 28:3,4 41:21 41:21 45:24 46:2 53:24 54:2 55:6 57:13 63:11 91:15 92:21 95:13 116:17 116:23 117:1,3 117:16,18 118:3,6,13 143:18 157:6 157:20 158:1 160:8,11 <b>reporter</b> 2:20 3:16,17,17 5:21 6:5,6 7:18 9:9,18 19:19 37:15 49:5 69:5 91:19 117:6 125:25 144:17 146:23 168:11 173:14 173:17 174:1,4 174:4,5,6,21 <b>reporter's</b> 6:24 <b>reporting</b> 72:3 <b>reports</b> 16:15,24 28:6 87:11 90:9 92:10 115:18 117:11 118:11,18,23	119:3 165:24 166:1 <b>represent</b> 8:3 21:12,24 40:17 59:23 74:24 76:10 105:11 105:16 119:16 120:7 136:7 139:9,14 <b>representation</b> 40:7,8,22 46:6 58:22 63:1,14 71:19 83:8 84:22 87:19 89:4 96:6 98:9 98:24 101:16 104:16 105:14 106:7,17,21,24 107:5,8,11,18 107:24 108:15 109:3,20 115:20 117:4 118:9 120:15 127:15 132:1,5 133:12 135:9 153:24 168:8 168:16 <b>representative</b> 68:5,20 <b>Representatives</b> 68:6 <b>represented</b> 21:14 68:7 101:17 139:16 142:24 <b>representing</b> 73:24 74:6,21 101:8 127:7 <b>represents</b> 19:16 46:10 69:19 89:24 91:17 <b>request</b> 25:15,19 25:20 35:7 55:19 56:1,10 56:10 83:12 90:6,7,8,10,14	150:12 <b>requested</b> 55:20 148:13 156:3 <b>require</b> 20:3 29:11 33:1,3 42:18 143:21 150:6 160:25 <b>required</b> 8:9,23 11:11 37:19 75:13 84:20 144:3,21 160:22 <b>requirements</b> 18:3 30:6 144:15,18 <b>requires</b> 34:4 41:2 62:9 <b>requisite</b> 118:20 <b>rerouted</b> 162:6 <b>research</b> 120:13 121:8 <b>reserve</b> 100:20 <b>reserved</b> 6:8 <b>resign</b> 77:24 <b>resignations</b> 78:1 80:2,4,8 <b>resolve</b> 46:18,23 <b>resolved</b> 137:3 <b>resonate</b> 172:18 <b>resources</b> 15:14 29:18 31:13 40:5 54:6,7 61:12,15 63:19 64:16 71:8 118:4,20 119:1 131:23 141:4,6 166:3,4 <b>respect</b> 10:21 18:6 25:9 32:20 35:1 36:20 37:5 40:22 60:16 69:21 86:6 97:20 110:25 112:7 <b>respective</b> 32:21	<b>respectively</b> 11:23 <b>respects</b> 118:9 <b>respond</b> 100:21 <b>response</b> 2:14 41:1 80:22 81:14,18,22 87:15 <b>responses</b> 53:9 78:24 <b>responsibilities</b> 15:7,10 30:12 30:12 37:12 41:20 150:10 <b>responsibility</b> 13:24 15:21 26:9 36:3 37:10 152:18 170:10 <b>responsible</b> 16:2 18:1,12 20:21 23:18,23 24:1 24:12 37:9 64:20 76:2 98:6 104:7 151:14 <b>restate</b> 105:23 111:2,21 <b>restaurant</b> 141:23 <b>restricted</b> 155:9 <b>restrictions</b> 153:5 <b>restroom</b> 8:19 <b>rests</b> 38:11 <b>result</b> 38:14 71:6 136:25 <b>results</b> 120:19 <b>resumé</b> 143:11 <b>retain</b> 120:6 168:7 <b>retained</b> 2:20 123:8 <b>retention</b> 124:8 <b>return</b> 17:13 24:19 175:16
---	---	--	--	---

## MIDWEST LITIGATION SERVICES



<b>revenue</b> 141:17 141:19 146:7 <b>revenues</b> 145:24 147:15 <b>reverse</b> 68:22 <b>reversed</b> 136:12 136:17,20,22 <b>reverts</b> 128:2 <b>review</b> 10:5 13:8 55:16 63:15 <b>reviewed</b> 10:16 12:10,11,12 <b>reviewing</b> 83:2 122:16 <b>reviving</b> 70:7 <b>rid</b> 58:17 <b>right</b> 24:19 27:8 29:8 48:20 55:2 70:17 71:24 79:22 92:2,19 95:2,4 96:11 100:20 103:11,22 105:3 112:6 114:5,7 117:24 120:4,4 137:24 138:25 146:8 149:11 154:9 161:23 163:25 166:5 <b>rights</b> 15:17 98:23 135:5 <b>Ripley</b> 86:12 <b>rising</b> 58:17 <b>robbery</b> 21:9,9 <b>robust</b> 22:13 47:21 <b>rock</b> 71:13 <b>role</b> 13:21 17:18 17:21 24:21 53:21 57:3 59:7 106:8 140:20 <b>room</b> 38:20 170:5 171:15 <b>Rothert</b> 5:17	<b>rough</b> 51:8 <b>roughly</b> 49:11 99:22 <b>RSMo</b> 174:9 <b>RubinBrown</b> 12:12 53:24 54:9 56:11 57:2 58:5,21 91:14 96:20 157:3,6 160:8 160:11,21,24 <b>rule</b> 60:19 64:8 66:5,13,22 68:1 110:11 125:21 127:9 153:10 154:2 <b>rules</b> 8:7 9:24 15:20 30:13 37:10,12,24 38:10,20 41:1 42:18,23 74:12 75:15 78:15,21 79:10,14 80:6 96:1,9 98:7,10 104:11 <b>ruling</b> 130:6,17 <b>run</b> 20:20 22:9 48:19 <b>runs</b> 48:16 <b>rural</b> 23:24 66:4 93:20 94:3,9 94:11,16,18,20 110:21,23 111:13,15,17 111:17,19,24 111:25 112:5 161:20 172:22 172:23 173:9 <b>Russ</b> 69:18,25 70:4 <hr/> <b>S</b> <hr/> <b>S</b> 2:9 4:1 <b>safety</b> 52:22 141:12 142:4,4 <b>sake</b> 163:6	<b>salaries</b> 151:5 152:16 167:18 <b>salary</b> 150:18 165:12,13 167:16,17 172:10 <b>sales</b> 52:21 <b>Sarah</b> 58:24 81:5 <b>satisfaction</b> 106:15,15 <b>satisfied</b> 163:16 <b>Satterfield</b> 69:16 <b>save</b> 30:20 <b>saying</b> 29:20 108:12,25 109:21,22 110:6 111:17 111:19 112:23 118:22 121:3 122:22,23 127:6 161:8 163:13 172:14 <b>says</b> 6:12 39:1 58:21 104:23 115:1 150:20 <b>scale</b> 151:14 <b>scheduled</b> 29:23 135:13 <b>schedules</b> 29:2 <b>school</b> 125:2 142:14 <b>Schweich's</b> 54:17 <b>scope</b> 40:7 <b>screening</b> 89:13 <b>se</b> 61:25 64:1 <b>second</b> 21:13,19 21:22 22:23 24:20 34:25 52:18 75:2 76:19 160:1 169:14,22,23 <b>Secondhand</b> 67:23	<b>secretary</b> 142:4 162:6 <b>section</b> 101:7 174:8 <b>secure</b> 72:3 <b>Sedalia</b> 21:17 94:7,8 <b>see</b> 10:18 20:6 38:7 42:10,24 43:8 81:14 88:22 97:13 122:25 133:2 164:4 169:16 169:18,22 <b>seeing</b> 41:3 46:21 <b>seek</b> 40:4 <b>seen</b> 117:18 135:18 <b>seldom</b> 153:17 <b>selective</b> 132:13 <b>Senate</b> 54:19 55:12,14,16,17 55:23 56:2,3 56:16 <b>send</b> 60:5 74:23 82:20 100:3 <b>senior</b> 30:17 151:6 <b>sense</b> 51:16 76:13 80:7 86:23 <b>sent</b> 82:4 100:5 100:9 <b>sentence</b> 81:22 <b>separate</b> 21:2 73:19 <b>Separately</b> 50:5 55:10 <b>September</b> 25:16 81:13,17 81:24 82:2 83:5 95:23 105:7 156:9 <b>serious</b> 42:21 135:4	<b>seriousness</b> 125:22 161:10 <b>serve</b> 17:2 <b>served</b> 13:18 14:9 170:22 <b>serves</b> 18:10 31:1 51:7 52:7 52:20 <b>service</b> 121:18 121:20 123:6 <b>services</b> 5:13,23 7:1 60:3,9,12 61:7 62:1 63:17 64:3,19 114:4 121:21 122:25 175:1 <b>session</b> 16:20 28:23 70:2 <b>set</b> 19:8 22:5,15 50:5 73:3 152:16 154:3 167:20 <b>sets</b> 35:10 168:1 <b>setting</b> 32:20 71:16 <b>seven</b> 8:16 14:16 16:9 42:11 159:6 <b>severe</b> 161:15,16 161:17,22,24 <b>severity</b> 82:16 126:1 160:16 160:23 161:10 161:14 <b>sex</b> 34:12 125:23 <b>Shahabian</b> 4:12 7:6,6 <b>shape</b> 40:21 <b>share</b> 18:24 19:16 40:6 92:15 93:15 97:19 151:3 <b>shared</b> 18:21 90:17 92:9,11 151:4 <b>sharing</b> 16:5
--	--	--	--	---

## MIDWEST LITIGATION SERVICES



90:19 98:4 <b>SHEET</b> 176:1 <b>sheets</b> 175:11,13 175:16 <b>Shipma</b> 2:5 4:18 7:14,14 29:17 44:15 59:4 67:2 72:22 73:6,11 91:21 91:25 92:3 96:21 97:2,6 97:16 100:17 104:25 115:21 115:25 116:3 116:12,18,22 116:25 128:13 130:21,25 131:10,14 146:10,14,21 146:24 147:3,7 148:4 152:1 154:18,21 164:16 168:13 168:20 173:16 173:22 175:3,8 <b>Shondel</b> 1:4 3:4 3:20 6:18 175:7 176:2 <b>shorthand</b> 6:4,5 174:4 <b>shortly</b> 70:12 75:10 <b>shoulders</b> 9:11 <b>should've</b> 155:2 <b>show</b> 99:9 116:5 161:2 <b>showing</b> 44:10 <b>shows</b> 121:9 <b>shrugging</b> 9:11 <b>shy</b> 90:18 <b>sign</b> 175:13 <b>signature</b> 6:7 173:14 175:11 175:13,17 176:25 <b>significantly</b>	120:20 <b>similar</b> 68:24 88:2 100:12 <b>simple</b> 39:19 62:20 <b>simply</b> 38:19 <b>Sincerely</b> 175:20 <b>single</b> 170:21 <b>sit</b> 23:24 28:15 55:21 83:22,24 95:19 133:15 151:24 173:8 <b>situation</b> 40:1 71:23 76:14 97:22 124:5 <b>six</b> 10:24 11:1 <b>Sixth</b> 71:19 98:23 132:1 <b>size</b> 30:19 36:3 44:22 <b>skill</b> 44:12,14 <b>skilled</b> 120:16 <b>skills</b> 42:20 43:9 43:12 <b>slow</b> 145:1 <b>small</b> 30:10 107:20 <b>social</b> 11:23 31:9 <b>solution</b> 105:24 106:10,11,19 113:14 119:8 119:21,22 130:7,19 132:3 132:6,18 <b>solutions</b> 105:20 119:11,19 132:9 <b>solve</b> 101:24 102:9 133:12 <b>somewhat</b> 153:17 <b>sorry</b> 10:12 11:2 11:6 19:20,21 19:22 43:19 48:12,23 119:20 143:6	168:12 <b>sort</b> 54:2 62:12 129:25 158:19 162:8 <b>sorts</b> 90:9 <b>sounds</b> 93:25 <b>source</b> 31:5 <b>sources</b> 153:6,18 <b>southern</b> 58:9 58:10,11 <b>space</b> 26:25,25 27:3 31:22,23 32:4,8 154:24 170:1,8,9,15 170:25 171:2,2 171:3 <b>Spangenberg</b> 115:18 116:17 117:1,3,11,16 117:18 118:3,6 <b>speak</b> 9:8 14:6 22:11 23:14 44:20 47:17 64:23 67:4 83:10 145:8 152:1 154:21 157:16 162:25 <b>Speaker</b> 70:7 <b>speaking</b> 21:25 109:1 113:21 162:21 <b>specific</b> 23:20 46:24 47:11 57:13 59:11 73:3 86:20 104:21 115:22 133:19 146:1 148:1 157:7 165:19 167:1 167:22 <b>specifically</b> 18:11 22:11 23:15 47:8 68:18 78:25 117:15 <b>specifics</b> 47:13	53:16 67:5 68:10 133:20 139:4 168:5 <b>speculate</b> 51:18 52:15 <b>speculating</b> 56:14 78:9 <b>speculative</b> 50:25 <b>speed</b> 55:17 <b>spend</b> 54:1 172:8 <b>spent</b> 11:21 72:4 103:10 <b>spoke</b> 53:13 79:1 <b>spoken</b> 101:20 <b>spots</b> 93:2 <b>spreadsheet</b> 2:16 89:18 <b>Springfield</b> 52:17 53:4 94:21 <b>St</b> 3:15 5:4,14,24 6:23 20:12,12 21:1 31:7 85:25 94:4,5 173:2 175:18 <b>stable</b> 125:12 <b>staff</b> 12:24 15:1 28:15 29:23 35:2,16 37:2 39:6 41:20 60:10 71:1 80:3,18 140:16 151:6 152:17 <b>staffers</b> 56:24 <b>staffing</b> 35:1,6 35:20 64:24 <b>stamps</b> 61:5,6 <b>stand</b> 68:12 <b>standard</b> 42:10 63:12 <b>standards</b> 54:11 54:25 159:3 <b>standpoint</b>	42:17 <b>stands</b> 23:6 96:11 <b>stand-alone</b> 152:14 <b>start</b> 19:13,23 111:18 140:22 <b>started</b> 48:23,25 67:20 103:20 118:12 171:14 <b>Starting</b> 1:20 6:13 <b>starts</b> 32:24 <b>state</b> 1:7 3:7,21 4:19 5:1,3,7 6:18 7:11,13 9:22 13:13,13 13:16,19 14:12 15:7,15,22 20:10,17,25 23:4 24:22 26:11 33:14 34:3,15 36:4,9 36:16 45:5 50:1 54:21,22 55:2 72:5 90:2 98:17 99:21 100:13 101:8 107:22 108:22 109:6,12,23 110:14 112:8 117:15 127:24 128:3 140:9 141:10,13 142:6,10,21 145:22 147:17 171:8 174:22 175:3,7 176:2 177:1 <b>stated</b> 23:13,25 34:20 106:6 108:12 <b>statement</b> 104:17,18 121:23 127:18 151:12
--	--	--	--	---

## MIDWEST LITIGATION SERVICES

				<b>T</b>
<b>states</b> 1:1 3:1,18 6:20 25:3 41:9 60:25 63:14,16 107:21 121:10 121:11	<b>structure</b> 17:13 18:4 19:6 133:16 150:17 151:22	44:2 55:9 <b>suggested</b> 77:20 <b>suggesting</b> 109:18	146:18 148:18 163:14 168:6 <b>suss</b> 52:2 <b>swear</b> 7:16,18 <b>swirl</b> 172:19 <b>sworn</b> 3:11 6:11 174:8	<b>T</b> 2:9 <b>table</b> 130:18 131:5,9 <b>tabs</b> 139:6 <b>tacit</b> 56:13 <b>take</b> 8:17,18 23:3 37:19 38:9,15,18 39:3 50:4 72:12 73:5 76:7,16 77:19 78:7,11 81:7 81:21 84:14 86:16 89:14 100:18 108:18 110:14 123:21 125:16 129:2 129:16 132:12 133:24 134:1,5 135:21 148:16 150:4 159:18 160:20 164:3 165:2
<b>statewide</b> 19:11 19:12 51:23 59:18 95:3 96:12 101:12 102:6,8 113:15 133:19 141:16	<b>study</b> 12:11 53:21,23 55:4 57:2 117:12 <b>stuff</b> 141:24 151:19	<b>suggests</b> 61:11 <b>Suite</b> 3:14 4:9,20 5:4 175:5 <b>sunshine</b> 16:8 144:4,15	<b>system</b> 13:14,17 13:20 14:5 15:12 18:5 19:11 21:14 33:6,15 34:16 39:25 43:12 44:4 45:4,13 58:16 67:22 68:23 71:4,5 72:2,19 77:6 80:11 87:8 88:15 95:1,15 104:7 108:22 108:22 109:11 109:20 110:8 114:13,13,22 115:19 117:8 117:12,20 118:7 119:1,7 119:23,25 120:11,12 121:5,19 122:5 123:7,8 124:7 127:8 133:16 139:17 140:5 146:2 148:3 149:20 150:15 153:3,23 154:10 157:14 157:21 158:7 158:14 162:10 164:20 165:25 166:2 167:20 172:18	<b>takeaway</b> 101:10 <b>taken</b> 1:15 6:3 43:1 60:10 65:17 66:18 99:1 100:25 104:19 143:24 164:9 174:10 174:14 175:10 176:3 <b>takes</b> 45:2 74:4 134:19 163:7 <b>talk</b> 19:5,7 21:5 25:7,12 29:22 41:24 42:9 47:7 49:1,1 53:11 58:25 70:25 72:7,8 72:25 77:14 155:6 166:1 <b>talked</b> 12:25 44:1 69:20
<b>static</b> 92:18 <b>status</b> 83:8 <b>statute</b> 18:11 24:25 25:3 40:20 41:4 60:15,19 62:3 62:9 66:23 67:8 150:19 167:20,22,25 168:1	<b>subject</b> 11:14,25 45:13 70:10 144:14 146:11 148:5 <b>subjective</b> 42:21 61:8 93:21 <b>submission</b> 53:15 <b>submit</b> 25:15 44:23	<b>superior</b> 123:7 <b>supervised</b> 41:11 <b>supervising</b> 122:24 <b>supervision</b> 28:12,13 123:14 <b>supplied</b> 157:12 <b>support</b> 35:2,16 152:16 <b>supporting</b> 92:13 <b>supposed</b> 50:18 54:1 <b>supreme</b> 54:22 54:22 65:21 68:2 77:8,17 103:12 152:5,7 152:8 156:12 <b>sure</b> 9:8,10 15:9 15:15,19,21 16:6 19:11,25 24:17 31:14,15 35:12 38:6,8 43:25 63:20 64:5,7 71:17 71:18 77:16 86:4 90:23 92:12 97:1,4 102:5 108:16 109:22 111:22 111:23 115:24 127:11 130:16 134:6 145:7	<b>systemwide</b> 96:23,25 159:1 159:9,10	
<b>statutorily</b> 18:1 <b>statutory</b> 18:2 150:9 168:4 <b>stay</b> 125:10 172:25 <b>step</b> 148:16 <b>steps</b> 66:18 87:10 134:18 <b>Steven</b> 5:7 7:10 86:9 164:4 <b>steven.ramsey...</b> 5:10 <b>stint</b> 15:1 140:15 <b>STIPULATED</b> 6:1 <b>stirred</b> 68:4 <b>Stoddard</b> 69:19 <b>stop</b> 68:12 <b>Street</b> 3:15 4:5,9 4:13 5:4,14,23 175:18 <b>stressed</b> 95:25 95:25,25 <b>strict</b> 63:12 <b>strike</b> 91:3	<b>submittals</b> 25:23 <b>submitted</b> 25:20 156:6 <b>subscribe</b> 177:11 <b>subsequent</b> 22:23 51:10 79:16 104:4 155:20 158:5 <b>subsequently</b> 155:23 <b>substance</b> 177:8 <b>subtract</b> 54:5 <b>suburban</b> 94:6 110:24 111:4,9 <b>successful</b> 154:11,14 172:23 <b>suffered</b> 136:25 137:7 <b>sufficiency</b> 122:16 <b>sufficient</b> 38:7 50:9 147:15 <b>suggest</b> 27:2			

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

75:25 91:8 101:22 102:12 120:5 162:1 <b>talkers</b> 144:24 <b>talking</b> 46:16 90:11 103:10 103:20 138:12 144:9 148:19 <b>task</b> 26:15 <b>tasked</b> 168:16 <b>tax</b> 52:21 141:20 <b>taxes</b> 141:23,24 <b>team</b> 41:14,15 139:8 <b>telephone</b> 144:11 <b>tell</b> 77:22 81:11 92:6 93:13,17 117:13 118:13 168:3 <b>telling</b> 107:2 <b>tells</b> 62:23 157:3 <b>temporal</b> 103:25 <b>temporally</b> 138:7 <b>ten</b> 50:12,13,14 92:22,25 93:16 155:12,17 156:14,18 166:8,18 169:2 169:3 <b>tenure</b> 44:7,11 44:13 64:1 67:9 75:21 137:12,14 138:12,19 140:4,9 142:15 <b>term</b> 93:21 111:9 160:6 161:8 <b>terminate</b> 38:21 38:22 <b>terminated</b> 39:5 <b>terminating</b> 150:11 <b>termination</b>	38:25 <b>terminology</b> 136:13 <b>terms</b> 16:18 29:1 29:5 30:7 32:17 41:23 47:13,14 53:14 53:16,19 60:1 68:21 71:24 79:4 95:15 111:4 <b>testified</b> 110:2 131:22 135:2 158:9 <b>testify</b> 10:21 70:10 105:17 108:9 109:4 128:9 <b>testifying</b> 8:12 <b>testimony</b> 7:19 8:11 9:23 56:22 101:9 102:16 108:11 148:12 160:7 174:7,9 <b>Thank</b> 40:11 97:5 164:12 168:20 <b>theoretically</b> 61:4,6 63:13 <b>thereon</b> 177:10 <b>thereto</b> 174:16 <b>thing</b> 36:4 37:8 42:23 59:17 87:10 102:22 129:25 <b>things</b> 9:17 16:4 16:14,16 17:11 18:24 38:8 41:2,25 42:6,8 42:16,20 44:11 45:24 46:1,2 49:24 51:3 54:14 58:5,20 59:11 61:18 63:22 85:5	86:24 88:9 101:22 103:9 109:7 134:11 160:2,3,20 161:19 172:19 <b>think</b> 18:9,10,22 18:23 20:19 24:4 26:5 31:8 31:16 36:2,13 45:2 47:12,14 48:21 49:3,14 49:16 51:6,9 61:25 62:9,10 62:16,17,17 64:22,23 69:11 69:15,24 70:15 70:18 72:11,20 73:23 76:18 79:17 81:16 95:20 96:24 98:22 100:5,15 101:21,25 102:12,17 103:12,24 104:8,18 110:19 111:21 112:6 113:22 113:24 123:11 124:23 126:13 126:21 128:11 130:23 131:5 131:18 132:3 135:2 136:12 137:2 140:24 143:3 149:9 151:1,1,16,16 151:17,17,17 151:19,21 155:4 157:15 158:16,21 159:4,5 161:6 161:6,7 162:2 163:4 165:7,8 <b>thinks</b> 108:8,10 <b>third-level</b> 76:20 <b>thirty</b> 159:7	<b>thorough</b> 91:22 <b>thought</b> 49:8 55:1 103:24 115:11 119:20 133:7,8 135:23 147:18 <b>thousand</b> 156:7 <b>threat</b> 75:6 <b>three</b> 16:9 20:6 28:25 43:8 49:24 69:14 79:24 93:9 126:22,22 130:14 138:8 140:22 143:4 <b>threshold</b> 36:13 61:2 <b>thresholds</b> 53:25 91:13,14 157:4 160:22 <b>Thursday</b> 79:24 <b>tie</b> 126:15 172:24,24 <b>tied</b> 68:23 81:18 81:19 118:3,19 125:21 126:1 166:4 <b>tier</b> 169:23 <b>till</b> 128:4 <b>time</b> 1:20 6:13 6:15 8:17 16:21 22:12 39:12 40:5 44:10 45:19 46:21 54:20,25 59:20 62:21 63:20 66:4 67:4,24 68:7 70:23 71:3,10 78:2 90:11 103:10 122:19 122:19 135:18 138:9,10 141:3 141:10 143:7 152:12 163:7 164:2	<b>timekeeper</b> 157:21 <b>times</b> 46:20 60:3 60:7 123:22 130:14,22 172:23 <b>title</b> 13:15 14:21 <b>today</b> 8:15 10:21 12:7,17,22 23:6 83:24 95:19 102:16 104:24 105:7,9 173:18 <b>Today's</b> 6:15 <b>token</b> 103:5 <b>told</b> 52:6 67:19 68:5,11 130:25 131:11 <b>tomorrow</b> 36:15 <b>tool</b> 34:6 109:15 <b>top</b> 89:25 91:7 92:21 93:16 97:9 171:20 <b>total</b> 43:18 165:3 <b>touched</b> 40:15 <b>track</b> 154:11 <b>tracking</b> 47:4 162:3 <b>train</b> 127:10 <b>training</b> 45:23 45:23 79:6 85:5 95:24 127:3 <b>transcribed</b> 6:6 <b>transcript</b> 2:21 173:17 175:12 <b>transfer</b> 109:14 <b>translated</b> 113:14 <b>travel</b> 26:18 28:15 59:19 <b>treatment</b> 69:12 <b>trial</b> 17:6 19:15 20:8,9 21:11 27:25,25 28:2
---	--	--	---	---

## MIDWEST LITIGATION SERVICES

28:8 34:11 43:1,2,9,9,10 43:12,16,18 80:12 81:4 85:22,23,25 95:14 96:13,22 97:3,8 102:6 126:14 135:13 135:15,20 136:2,5,8,10 151:6 159:16 159:25 165:1,3 <b>trimmed</b> 157:2 <b>trouble</b> 9:3 <b>true</b> 23:19 93:12 111:21 135:1 152:24 177:9 177:13 <b>truth</b> 7:20,20,21 <b>truthfully</b> 8:10 8:24 <b>try</b> 29:2,22 46:18,23 52:2 71:8 85:5,6 164:18 <b>trying</b> 50:12 67:10 72:3 112:20 142:14 146:19 147:10 147:17 <b>Tuesday</b> 79:24 <b>tune</b> 22:6 51:11 <b>turn</b> 38:22 67:20 74:18 75:6 99:15 104:9 <b>turned</b> 99:17 <b>turning</b> 71:5 79:13 <b>turnover</b> 167:4 <b>two</b> 14:25 21:9 21:24 22:4 43:17 52:6 54:14,14,21 55:9,11 73:23 77:21 79:9 96:3,4 101:23	109:13 121:11 122:6 123:10 134:13 138:8 140:21 143:3,4 144:22 145:16 145:19 155:14 156:6 159:22 160:12 170:3 <b>two-page</b> 99:22 <b>two-year</b> 51:25 <b>type</b> 34:13 37:8 46:2 54:1,5 74:20 75:1,2,8 95:1 96:17 125:22 <b>types</b> 17:11 22:7 42:22 46:1 58:14,19,22 82:16 132:14 165:19 <b>typewriting</b> 6:7 174:11 <b>typical</b> 167:16 <b>typically</b> 16:14 25:16 26:5 28:6 29:5 45:11 55:21 59:23 172:7 <hr/> <b>U</b> <b>Uh-huh</b> 97:6 <b>ultimate</b> 60:20 <b>ultimately</b> 27:21 38:10 145:21 151:14 171:19 <b>umbrella</b> 161:8 <b>unable</b> 27:10 38:9 40:3 82:17 98:8 166:14 168:7 170:4 <b>unavailability</b> 81:7 85:24 87:13 118:4,20 <b>unavailable</b> 83:21 86:5,7	86:11,21 <b>uncertainties</b> 34:20 <b>unclear</b> 152:10 <b>unconstitutio...</b> 121:14 <b>underlying</b> 81:19 <b>underneath</b> 20:5 64:7 <b>understand</b> 8:13 9:2 45:19 48:15 49:9 90:23 91:16 102:16 103:2 104:13 110:4,6 111:22 112:22 122:23 141:25 148:12,17 149:14 150:7 151:9 152:20 154:23 155:7 159:2 162:21 163:14 172:14 <b>understanding</b> 10:20,23 30:2 34:18,25 37:21 38:10 39:8 43:16 45:4 54:10 58:24 65:25 66:9,12 67:16 70:20 71:21 72:9 82:6,8,13 83:24 85:22 87:17,20 104:11,13 106:23 114:24 118:2 119:2 125:11 127:25 146:4 147:5,12 149:1 152:7 153:11 154:14 159:21 160:10 165:10 <b>understood</b>	36:11 112:1 152:3 <b>underutilized</b> 109:12 <b>unemployed</b> 61:23 <b>uniformity</b> 42:4 <b>Union</b> 4:4 51:22 51:24 53:3 80:12 94:17 102:17 <b>United</b> 1:1 3:1 3:18 6:19 <b>units</b> 58:16 59:1 139:1 <b>upheld</b> 135:6 <b>upwards</b> 28:25 167:6 <b>up-to-date</b> 90:12 <b>urban</b> 93:18 94:14,23 110:24 111:4 111:10 173:1,8 <b>usage</b> 110:25 <b>use</b> 29:21 35:12 36:20,22 40:5 60:24,25 62:20 63:9 64:14 90:15 109:15 113:25 145:18 158:6 160:6,13 160:14 163:12 172:1 <b>uses</b> 25:23 <b>utility</b> 163:5 169:16,18,22 173:8 <b>utilize</b> 46:11 47:4 120:2 151:25 171:18 <b>utilized</b> 67:8,25 169:4 <b>utilizing</b> 120:20 131:19 169:18 <hr/> <b>V</b> <hr/>	<b>vacancies</b> 166:17,21 169:8 <b>vacancy</b> 15:2 27:12 169:12 169:14 <b>vacant</b> 16:10 169:4 <b>vacated</b> 136:13 <b>value</b> 153:24 <b>varied</b> 30:11 87:1,15 <b>varies</b> 24:16 32:18 51:19 60:12 139:3 163:24 <b>various</b> 26:11 165:24 <b>vary</b> 32:14 42:2 59:25 65:2,11 161:18 <b>venues</b> 169:19 <b>verbal</b> 19:2 <b>verbally</b> 9:10 <b>version</b> 55:24 <b>versus</b> 6:18 65:22 93:19 <b>veto</b> 22:20 47:25 145:10 <b>vetoed</b> 22:19 47:24 145:9 <b>viable</b> 71:11 88:23 108:13 108:20 109:23 109:25 112:11 112:19 133:20 <b>video</b> 50:10 <b>videographer</b> 5:13 6:14,25 7:16 8:20 65:15,18 100:23 101:1 164:7,10 173:12 <b>video-recorded</b> 1:14 3:10 6:16
--	--	---	--	--

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334

<b>view</b> 98:19 101:10 130:5 132:3 <b>violating</b> 78:21 <b>violation</b> 125:24 <b>violent</b> 142:7 <b>visit</b> 28:24 29:2 29:6,23 159:6 <b>visited</b> 51:21 68:8,20 <b>visiting</b> 90:11 <b>visits</b> 28:21 <b>vis-à-vis</b> 29:18 <b>volatile</b> 93:1 <b>volatility</b> 93:3,6 <b>volume</b> 99:14 110:15 <b>votes</b> 25:18 <b>voucher</b> 108:22 108:23 <b>vs</b> 1:6 3:6,21 175:7 176:2	<b>wanted</b> 63:20 78:16 86:18 97:3 150:2 <b>wants</b> 129:18 <b>warning</b> 68:24 <b>warts</b> 120:10,12 122:4 126:22 <b>Waters</b> 65:23 66:8,20 <b>way</b> 21:8 28:6 32:24 40:17,21 51:20 58:14 73:7,24 74:4 80:18 92:15 97:11 102:9 109:18 112:15 113:8,18,19 115:19 118:3 122:3 124:11 125:2,6 127:6 127:24 129:22 137:10,21 143:6 162:6 163:2,20,21 <b>ways</b> 29:13 73:23 101:23 119:14 158:17 <b>week</b> 23:11,11 28:24,24,24,25 29:3 79:9,23 82:12 83:12 97:24 135:16 <b>weeks</b> 79:9 <b>weight</b> 38:19 55:10 <b>went</b> 52:2 56:9 70:20 103:21 159:25 163:25 <b>weren't</b> 102:5 <b>West</b> 4:13,20 5:8 175:5 <b>western</b> 1:1 3:1 3:19 6:20 58:13 121:10 <b>we'll</b> 8:6 70:12 143:11,20	<b>we're</b> 6:14 8:7 16:16,23 18:23 35:11 49:20,22 50:8,17 54:1 59:19 65:15,18 90:23 100:23 101:1 144:23 153:17 164:7 164:10 170:25 171:1,13 173:12 <b>we've</b> 27:11,12 34:5 40:15 58:19 90:17 101:20,21,22 131:18 135:17 172:15 <b>whatsoever</b> 31:4 <b>wide</b> 50:7 <b>widen</b> 40:8 <b>William</b> 3:15 5:22 6:4 174:3 175:23 <b>Williamson</b> 2:3 4:4 7:4,4,24 8:2,21 10:10 10:15 37:17 43:22 44:18,19 48:24 49:9,10 59:5,6 65:13 65:20 67:6,15 72:25 73:10,12 73:13 76:25 80:23 84:12 89:20 91:20,24 92:2,8,9 95:17 97:11,18 99:3 99:8 100:15,20 116:8 130:9,14 130:16 134:22 168:22 173:21 <b>willing</b> 23:3 45:13 50:4 64:11 110:14 134:4 167:8 <b>willy-nilly</b>	151:19 <b>wind</b> 39:23 40:3 <b>withdraw</b> 23:13 96:6,10 98:11 116:15 123:20 124:2,5 <b>withdrawal</b> 126:17 128:16 <b>withdraws</b> 123:20 127:21 <b>withheld</b> 22:21 50:19 145:11 145:21,23 148:15 <b>withhold</b> 48:1 146:1 147:4 <b>withholding</b> 146:5 147:14 <b>witness</b> 6:7 7:17 7:22 19:20 48:10,13,17,21 49:3,6 67:9,12 84:6,9 96:24 97:5,9 100:18 144:20,25 148:8 164:6 173:15 174:7,9 175:12 176:1 176:25 <b>witnesses</b> 11:22 <b>Woodrail</b> 4:19 29:15 46:15 90:18 175:4 <b>word</b> 67:7,11 124:23 <b>words</b> 72:14 88:7 120:17 129:13 160:13 169:11 <b>work</b> 13:2 14:14 18:18,18 24:21 24:23 28:7 38:21 39:3 40:6 51:14 74:15 113:7 120:24,25	121:4,15 140:19 142:16 160:23 172:12 <b>worked</b> 14:12 15:4 89:9 141:3,11 142:9 142:22 160:25 <b>worker</b> 31:9 <b>workers</b> 11:23 <b>working</b> 14:18 14:19 38:6,7 38:22 49:12 113:4,6 <b>workload</b> 91:13 160:14,19,20 161:9 <b>workloads</b> 171:9 <b>workman's</b> 141:21 <b>works</b> 33:18 <b>world</b> 107:20,20 <b>worry</b> 108:4 168:14 <b>wouldn't</b> 106:22 113:16 129:10 134:3,3 <b>wrap</b> 164:5 <b>write</b> 77:14 100:1 161:5 <b>writing</b> 39:10 80:2 <b>written</b> 39:14 57:5 99:23 100:12 <b>wrong</b> 164:2 <b>wrongful</b> 137:19 137:25 <b>wrongfully</b> 137:8 <b>wrote</b> 80:8 164:1
<hr/> <b>W</b> <hr/>				
<b>wait</b> 93:15 <b>waiting</b> 85:2,11 <b>walk</b> 143:6 <b>Wallis</b> 81:5,20 81:25 82:2,9 83:3,13,17 84:25 85:16 105:8 <b>Wallis's</b> 82:14 82:20 <b>want</b> 17:13 24:19 27:19 40:11 43:2,8 43:11 72:25 90:12,21,22 92:3 101:21 125:11 127:19 129:2,19,22 131:2 132:15 145:18 146:15 152:15 163:15 169:5,5,12,13				
<hr/> <b>X</b> <hr/>				
<b>X</b> 2:1,9 30:9				
<hr/> <b>Y</b> <hr/>				

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334



<b>yeah</b> 34:22 39:7 47:18 48:17 53:13 57:25 59:9 69:1 71:3 72:16 111:3 117:2 123:12 123:18 125:13 125:15,18 133:2 143:10 143:13 145:12 145:15 147:21 147:25 149:4 152:2 155:2 158:16 160:4 160:12 161:4 168:4 170:10	<b>yield</b> 54:6 126:2 <b>York</b> 4:6,6,14 4:14 141:13 142:6,10,21 <hr/> \$ \$10,000 61:12 \$3.47 22:6 47:20 148:2 164:1 \$3.5 49:18 \$3.74 145:4 \$365 165:10 \$4.5 49:17,23 \$40 49:11,11 \$5,000 61:13 64:2,7 <hr/> # #566 5:22 <hr/> 1 1 2:11 10:8,11 13:21 48:17 90:4 95:13 171:13 1st 48:16,19 1-800-280-3376 5:15,25 1:30 105:10 10 2:11 10:47 100:24 10:53 101:2 100 4:20 33:23 175:5 1000 4:20 175:5 10004-2400 4:6 10019 4:14 101 2:4 11 83:5 95:23 11th 175:18 1100 4:9 1130 3:14 114 20:24 12 51:7,12,24 140:24,25 12:08 164:8 12:16 164:11	12:28 173:13,24 125 4:5 61:5 125,000 31:13 13 10:22 11:17 11:18 84:21 14 140:25,25 158:2 15 48:19 150,000 31:14 16 48:19 164 2:5 169 2:6 17 167:4 17-04057-CV-... 1:6 3:6 6:19 18th 4:5 19th 95:14 1980s 115:13 1989 114:23 1993 115:17 116:16 117:1,3 <hr/> 2 2 2:12 76:22 77:1 103:13 20 156:20 177:15 200 5:4 2012 140:25 158:3 2014 53:22 158:3 2015 13:22 22:4 47:18 48:25 49:2,19 50:14 51:4 157:25 2016 48:3,9,18 49:2,3,6 2017 1:16 2:18 3:11 6:15 48:11 81:13,17 90:4,4 93:9 95:13 99:6 175:2,10 176:3 2019 156:7 2050 4:9	21 60:24 212 4:6,14 221 5:8 23 95:11,11 25 52:19 167:6 26 52:20 81:24 26th 82:2 27th 81:13,17 284-7340 4:6 <hr/> 3 3 2:14 80:21,24 104:23 105:1,3 3.47 22:15 55:8 145:13 155:15 155:17 3.74 49:1 30 20:9 42:13 175:17 30th 48:16,19 30(b)(6) 9:24 300 96:19 102:5 156:22 31st 90:4 95:13 314 5:5,15,24 33 21:2 340-7861 5:5 350 165:5,10 35446 175:25 365 165:5 <hr/> 4 4 1:16 2:15 3:11 89:17,21 95:6 111:1,6 171:8 175:10 176:3 4th 6:15 40 47:12 47 145:14 49 22:9,13,16,24 23:8,15,17 47:21 50:1 63:14 75:1 113:25 115:16 116:2,11,19,21 122:4,14 123:8 125:4,5 126:23	127:16 134:8 134:24 135:3,8 136:1 137:6 149:7 491-5616 4:10 492.010 174:9 <hr/> 5 5 2:17 99:5,10 506-3750 4:14 51 4:13 52nd 4:13 525-5212 4:21 573 4:21 5:9 59 125:4 <hr/> 6 6 10:22 105:7 60 52:1 63101 3:15 5:4 5:14,24 175:18 644-2191 5:15 5:24 65102 5:9 65203 4:21 175:6 <hr/> 7 7 2:3 4:20 175:5 711 5:14,23 175:17 74 145:13 74,000 51:8 751-1024 5:9 76 2:12 <hr/> 8 8:10 1:20 6:13 6:16 80 2:14 80,000 51:9 815 5:4 82,000 51:9 89 2:15 <hr/> 9 9 175:2
--	--	---	--	--

## MIDWEST LITIGATION SERVICES

www.midwestlitigation.com

Phone: 1.800.280.3376

Fax: 314.644.1334



<b>9-11-17</b> 2:12 76:22 <b>9:37</b> 65:16 <b>9:51</b> 65:19 <b>906</b> 3:14 <b>92614</b> 4:10 <b>949</b> 4:10 <b>99</b> 2:17 159:17 160:1				
---	--	--	--	--